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-Davis

Understand some passenger in the
numbers of Philo-Cato, it will be necessary
remember that they were written in
the autumn of 1808.

LETTERS OF MARCUS, *presented by A.L.D.*

~~W.P. Van Ness~~
AND

PHILO-CATO,
Matthew L. Davis
ADDRESSED TO

DE WITT CLINTON, Esq.

MAYOR OF THE CITY OF NEW-YORK.

A NEW EDITION,

CONTAINING,

ONE LETTER OF MARCUS, AND SEVERAL

NUMBERS OF PHILO-CATO, *presented by A.L.D.*

NEVER PUBLISHED BEFORE.

Checked
May 1848

1830.

9th.



This pamphlet was purchased by
M.L. Davis. The letters of Marcus were by
W.P. Van Ness, then of Columbia Co.



INTRODUCTION.

IN presenting to the public a new edition of the **LETTERS OF MARCUS**, and of **PHILO-CATO**, addressed to De Witt Clinton, esq. the publisher begs leave to observe, that the **VIIIth Letter of MARCUS**, and several of those of **PHILO-CATO**, together with the professional correspondence of Messrs. Rudd and Talmadge, have never appeared in print. The **VIIIth Letter of MARCUS**, which will be found at the *close* of the pamphlet, and the professional communications, are very important documents, and confirm all the prominent facts alledged in the numbers of **PHILO-CATO**. Several of these numbers, it will be recollected, appeared in the *Public Advertiser*, in November, 1808: others were acknowledged by the editors to have been received, but were not published. They are now presented entire, with some immaterial alterations.

These numbers were occasioned by an attack on Mr. Wortman, by a writer in the *American Citizen*, under the signature of Philo-Corregidor. Who Philo-Corregidor is, *may* be conjectured from the subjoined paragraph, extracted from the *Evening Post*. Philo-Cato will never be known.

“PHILO-CORREGIDOR AND PHILO-CATO.

“Two writers, under these respective signatures, have appeared in the *American Citizen* and *Public Advertiser*; the former attacking Tunis Wortman, the latter De Witt Clinton; and

it would be a want of candor not to acknowledge the superior merit of both, as pieces of composition ; the former, indeed, is written with a force and elegance that we believe to belong to only one man of the present Clinton party, and not an inhabitant of this city. We are quite at a loss in our conjectures as to the writer of the latter. If we can possibly spare room, we shall reprint both."

THE PUBLISHER.

LETTERS

ADDRESSED TO

DE WITT CLINTON, ESQ.

MAYOR OF THE CITY OF NEW-YORK.

By Marcus.

TAKEN FROM THE POUGHKEEPSIE BAROMETER.

No. I.

SIR,

UNACCUSTOMED to the language of panegyric, I offer no apology for the abruptness of this address. A Republican from education, from habit, and from principle, I disdain the courtier.

The period, sir, is rapidly approaching, when the influence of truth will divest you of the ill-born honours which have enshrouded your brow. The reign of proscription will soon subside, and, it is to be hoped, will be succeeded by tolerance and forbearance. It is, however, both necessary and proper that you and your immediate satellites should be stripped of the emoluments of office. The public welfare and the voice of the people imperiously demand it. The evil forebodings of a guilty mind must long since have suggested it to you. Nor will you, in the calm and dispassionate moments of reflection, condemn this sentence as harsh. You will acknowledge its justice, and in the language of the sacred volume, exclaim, "The arrows of the Almighty are within me, the poison whereof drinketh up my spirit; the terrors of God do set themselves in array against me."

You have had the power of dispensing favours, almost without limitation; and you have executed that trust in such a manner as to excite the disgust and contempt of all moderate and disin-

terested men. The venerable patriot, and the war-worn soldier of our country, have been impiously thrust from petty posts, to satisfy the cravings of idle and fawning sycophants. You are encircled by a mercenary band, who, while they offer adulation to your system of terror, are ready, at the first favourable moment, to betray and desert you. A portion of them are needy young men, who, without maturely investigating the consequences, have sacrificed principle to self-aggrandizement. Others are mere parasites, that well know the tenure on which they hold their offices, and will ever pay implicit obedience to those who administer to their wants. Many of your followers are among the most profligate of the community. They are the bane of social and domestic happiness. Servile and dependent panders, no means, however wicked, have been neglected by them to accomplish their purposes, and to carry into execution your mandates.

Numerous are the charges which have been exhibited against you. Some of them have doubtless been exaggerated, and others have no foundation in truth. Sufficient have, however, been established to bring upon you the odium of your fellow-citizens. It is not my design to repeat those charges, nor to load you with vulgar and unmeaning epithets. To triumph over a fallen enemy is cruel in the extreme. But there is one part of your conduct which has excited much conversation, and is but very imperfectly understood. It betrays, however, a species of perfidy and falsehood repugnant to the feelings of a man of honour, and too undignified for the most grovelling wretch that receives the patronage, or boasts the confidence, of even De Witt Clinton.

The subject to which I allude, is the *union*, as it has been facetiously termed. And although I shall be brief, yet I shall convince you and your associates that I am no stranger to the details connected with that transaction. How I came to the possession of them is not material to you, and is unimportant to the public. The tale shall be a plain unvarnished one, carrying on the face of it proofs of its accuracy. My next number shall be devoted to this subject, and in the presence of God and my country, I pledge myself to establish your **DUPLCITY** and your **PERFIDY**.

MARCUS.

No. II.

TO DE WITT CLINTON, ESQ.

SIR,

IN the presence of God and my country, I am pledged to establish your duplicity and your perfidy. But it will be first necessary to prove, beyond the possibility of doubt, that general Bailey, in the negotiations on the subject of a *Union* between the Burrrites and Clintonians, was your authorised agent; acting under your instructions; and with your knowledge and approbation, compromising the party of which you are considered the chieftain. This, sir, shall be done: it shall be done in such a manner as to leave no place of refuge for the most sceptical of your sycophantic followers. And I now solicit the attention of the honest and independent of every party, while I proceed to unveil a transaction, which, for political treachery and baseness, could have no equal, but in the history of a tyrant that, with wild and extravagant ideas, would attempt to prostrate our constitution, and destroy the liberty of the citizens, that on their ruins he might be elevated to official dignity and honour.

About the 24th of December, 1805, Mr. Levi M'Keen, of Poughkeepsie, arrived in the city of New-York, and shortly after called on different gentlemen among his political friends, stating to them that overtures had been made by the Clintonians, to form an union with the Burrrites, and his opinion that the plan was feasible. He added, that he had conversed with Gen. Bailey on the subject, and was desirous that Col. Swartwout should consent to an interview for the same purpose. Mr. M'Keen was informed that there were numerous and almost insurmountable obstacles to such a measure, inasmuch as the friends of Col. Burr could never place confidence in the engagements of De Witt Clinton, until *he should have done some act*, indicative of his sincerity.

It was then suggested, that as Mr. Clinton had not the power of giving offices at that moment, and thus *publicly committing himself*, he should give to the friends of Col. Burr, pecuniary aid, through the medium of the Manhattan Bank, of which he

was a Director: and from which Bank they were almost totally excluded, by a system of intolerance and persecution.

This point, after two or three days' discussion, was conceded as reasonable and proper. Hitherto Mr. M'Keen and General Bailey were the only agents; but the affair assuming a more important aspect, it became necessary that some person residing in the city of New-York, known to be friendly to Col. Burr, should undertake the arrangement; and Col. Swartwout was selected. It was, however determined, that no movement should be made, on the part of the Burrites, but by solicitation.

On the 5th of January, M'Keen left the city of New-York, and on the 7th Mr. Swartwout received from Gen. Bailey a written note, inviting him to spend an hour with him that evening, which invitation was accepted. After some desultory conversation, the plan of terminating the division between the Burrites and the Clintonians was introduced by Gen. Bailey. Mr. Swartwout immediately inquired whether he was authorised by the Mayor, or merely spoke as Gen. Bailey in his private capacity. The General replied, that he was authorised by Mr. Clinton. They then proceeded to the discussion of the subject; and their interview lasted about four hours. Mr. Swartwout remarked, however, as a preliminary to the discussion, that the friends of Col. Burr retained their respect and esteem for that gentleman; that his friends were their friends, and his enemies their enemies.

From this day until the 11th of January, the interviews between Gen. Bailey and Col. Swartwout were almost daily. At some of their meetings R. Riker was present; at others, Pierre C. Van Wyck. During the whole negotiation, however, Mr. Clinton never consulted any person or persons, it is believed, but those above named.

The character of Richard Riker is well known. His instability as a politician is notorious. In 1798 he was conspicuous as a federalist, and in the public market triumphed at the success of the federal ticket in the city of New-York. To De Witt Clinton, since his appointment to office, he is as the *pilot-fish* to the *shark*.

P. C. Van Wyck is a young man, unacquainted with the political concerns of the state, and consequently a very incompetent judge of measures of policy.

Here, sir, permit me to ask the question, are you capable of offering a greater insult to the old and respectable members of the republican party, than you did, in thus selecting as counsellors and advisers, two young men, to the exclusion of all those who had contributed to elevate you to the dignified station you now hold? Was there not one man among that party, of years and experience, worthy your confidence?

On the 11th of January the negotiation was finally concluded. The terms and conditions of it shall be the subject of my next number. Let me again request the public to bear in mind the solemn and sacred pledge I have made.

MARCUS.

No. III.

TO DE WITT CLINTON, ESQ.

SIR,

ON the 11th of January, as you well know, the terms of an union of Burrism and Clintonianism, was concluded, and they were as follows:

Firstly—That Col. Burr should be recognized by the union party, as a republican.

Secondly—That the Editor of the American Citizen should desist from all attacks upon him or his friends; that he should advocate the union, if it became necessary, in his paper; and that he should not defend the Burrrites as *returning* to republican principles, they persisting that they never had abandoned them.

Thirdly—That the friends of Col. Burr, as it respected appointments to offices of honour or profit throughout the state, should be placed on the same footing as the most favoured Clintonians; and that their Burrism should never be urged as an objection to their filling those offices.

Fourthly—That at the approaching election in April, the Burrites should have a portion of at least one-third of the Representatives of the city and county of New-York, in the State Legislature.

Fifthly—That De Witt Clinton should see that they (the Burrites) were accommodated to any reasonable amount they might require in the Manhattan Bank, and that he should actually procure for an individual, in the course of the next week, an accommodation, in said bank, of at least 18,000 dollars.

Such were the conditions of the union, as concluded on the morning of the 11th of January. Mr. Swartwout having reported the result of his negotiations, it was their opinion that Gen. Bailey ought to repeat them to some other friend of Col. Burr. The General was noticed of this circumstance, and cheerfully assented. Accordingly, on the same day, about one o'clock, Mr. Mat. L. Davis accompanied Mr. Swartwout, by appointment, to the house of Gen. Bailey, where, in the presence of those two gentlemen, he repeated the above terms as the basis of a reconciliation.

On Monday, the 13th January, the Manhattan Bank, in pursuance of the above arrangement, discounted, for the accommodation of a distinguished Burr-ite, a note of *Nine Thousand Dollars*; and on Thursday, the 16th, another note of *Nine Thousand Dollars*, for the accommodation of the same person, making the *Eighteen Thousand Dollars*, stipulated for in the 5th article.

Other friends of Col. Burr were accommodated with smaller, but very considerable sums, who could not previously obtain *One Cent* from the coffers of that institution.

Having stated the facts to the 16th January, with your permission, Sir, I will make the application. If Gen. Bailey was not your authorised agent, acting with your knowledge and approbation, how did it happen, Sir, that he should undertake to pledge the funds of the Manhattan Bank, of which he was not a Director, for the accommodation of Mr. Burr's friends, to the amount of thousands and twenties of thousands of dollars; and that those promises and pledges should be faithfully performed? How did it happen, Sir, that the General should, on the 11th

January, agree that a loan should be effected by that bank on the 13th for 9000 dollars, and another loan on the 16th for an equal amount, and yet not be acting under your authority? But it does not stop here. The General pledged himself that you should procure discounts for other friends of Col. Burr, and they also were furnished in various instances, and it is believed in every instance, where applied for previous to the rupture. I repeat it; let it be recollected, Gen. Bailey was not a Director of that Bank. He had no controul over its funds. You was a Director; and you have your puppets there, that you move as you please. The conclusion is irresistible. Gen. Bailey must have acted by your authority; and the man who asserts a contrary position, after reading this, must stand convicted as a *knave* or a *fool*.

One observation more, and I close this number. If the facts which I have detailed respecting your directorship are unfounded, they are susceptible of refutation. The books of that institution are at your command. The Vice-President of the Company, James Arden, of all *tools*, is the most contemptible. Procure his certificate to the contrary. I have stated the precise days of the week and of the month, and it would require but very little labour to make the reference; but this I know will never be done; for they are unanswerable truths which I have related.

Having established the fact, that Gen. Bailey was your authorised agent, I proceed to show your duplicity towards your own party, and your perfidy towards the friends of Col. Burr. Let those men designated Clintonians, particularly in the city of New-York, carefully peruse my next publication, and if they retain one atom of laudable pride; one ray of self-importance; if they are not sunk and debased beneath the native dignity of man, they will spurn your future confidence, and no longer remain the miserable automatons of a treacherous chief.

MARCUS.

No. IV.

TO DE WITT CLINTON, ESQ.

SIR,

ON the 11th January, the negotiations, as already stated, were terminated ; and on the 13th the conditions, in part, carried into operation by discounts in the Manhattan Bank. Mr. Clinton having thus *given a pledge* of his sincerity ; it was agreed, that an interview should take place between him and Col. Swartwout. Thursday evening, the 16th, at six o'clock, at the house of Gen. Bailey, by arrangement, they met. About 7 o'clock, Mr. Clinton's counsellors and advisers, Riker and Van Wyck, came into the room to express their *heartfelt* satisfaction at this UNION OF HONEST MEN. They remained about an hour and then retired.

It had been previously determined that the *leaders* of the Clinton party should manage their own men in their own way, and that no communication should be made by the Burrites, to the followers of Mr. Clinton.

I have now arrived at a stage of this transaction, where your *duplicity* shone resplendent. No apology is necessary to *you* for stripping the vizard from your face : but it is a duty I owe to the community, to acknowledge, that nothing but the most gross perfidy on your part, could justify me in developing a transaction, which, for the honour of human nature, ought ever to have remained in the most profound oblivion.

Here I request the reader, and particularly the present Representatives from the city and county of New-York, to pay attention to *dates*. They are important. They will serve to satisfy every candid and dispassionate man, that on *great questions* Mr. Clinton has very few *confidants*, and they are not to be found among the gentlemen who have the *honour* of representing the metropolis of the state.

On the 11th, the union was concluded ; on the 13th, a part of the conditions were carried into operation ; on the 16th, Mr. Clinton and Mr. Swartwout had their interview ; and yet on the 17th, there was not an individual member of the Legislature,

Riker excepted, who had the most distant suspicion of such an event having taken place ; because on that day, the 17th, and the next, both James Warner, and Francis Cooper, were busily employed with Riker, in endeavouring to bring about this desirable reconciliation. These men were honest and sincere ; but they will perceive, while communicating and planning with Riker as to the best means to accomplish the object, he was laughing in his sleeve at their credulity ; and triumphing with Van Wyck and Clinton, at the facility with which the *well-born* and the *great*, too frequently impose upon the weak and the ignorant. Such must ever be the degraded state of men, who implicitly follow demagogues.

On or about the 18th, *seven days after* the union had been concluded, a dinner was given by Mr. Clinton, at which the members of the Legislature, with other *leading* republicans, were present. At this dinner the subject of the union was the topic of conversation. Here it was that De Witt played *his part* with great adroitness. He could scarcely hazard an opinion, as to the policy of the measure.—He was willing to sacrifice his resentments and his feelings for the public good ; and was determined to be governed by his friends. Consummate duplicity ! The prevailing sentiment was, that the measure would be, in a political view, highly advantageous. No man appeared more gratified with the prospect of success than William W. Gilbert ; and all who spoke of it, were willing to make an effort to accomplish it. The company retired with these impressions, each doubtless complimenting their great chief on his liberality of sentiment and disinterested patriotism !

To comment on this scene of duplicity and fraud is certainly not requisite. If the adherents of Mr. Clinton are still willing to remain his *dupes*, they have no right to complain, if stigmatized by the upright and independent of every party, as the most base and grovelling panders that ever disgraced any country.

Where is the pride of William W. Gilbert ? And where the high and towering spirit which once glowed in the bosom of many of our old and respectable republicans ? In short, where is

the man in the party who does not feel a degree of mortification and chagrin, at being excluded from the confidence of his leader; while such men as Mr. Riker and Mr. Van Wyck are selected to decide on its most important arrangements?

The statement which I have given will account for the appointment of Mr. Van Wyck, Recorder of the city of New-York, and the unexampled efforts which were used to procure for him that situation.

Such, sir, has been your duplicity towards your friends. They have good and cogent reasons for complaint. The public have strong claims to a full and complete knowledge of this transaction; because it serves to develop an important trait in your character. Whether that developement will redound to your honour or your fame, is not my province to decide. It is a question I refer to a political tribunal, from which there is no appeal — *the voice of the people*. In my next I shall detail your deportment, your language, and your *promises*, to the friends of Col. Burr, at the house of Gen. Bailey, on the evening of the 24th January, where you met them by appointment.

MARCUS.

No. V.

TO DE WITT CLINTON, ESQ.

SIR,

I HAVE already shown that the fifth article of the treaty was complied with by you. So, also, was the second, which relates to the Editor of the American Citizen. He adhered to his *orders* on that occasion, when menaced with political ruin by the populace. For years had he unceasingly vilified not only Col. Burr, but all his friends: they were charged with an abandonment of principle; and represented as the most vile and daring faction in the community. But no sooner was the *alliance* formed, than these men were complimented and panegyriized for their eminent services as republicans, and their inflexible attachment to their friend. With this servile inconsistency staring him in the face,

how can Cheetham prate of his independence of sentiment? It must be remembered, he has published to the world, that both parties kept him ignorant of their arrangements; that neither considered him entitled to their confidence. Why should they? It is evident, however, that *both* conceived they had a right to *contract* for him, and to agree between themselves what he should, and what he should not publish. And yet this man talks of *tools* and *hireling Editors*!

You will pardon, sir, I trust, an occasional digression from yourself, when you perceive that my attention is engaged by your *chosen friends*, and most intimate associates.

From the 18th until the 24th of January, nothing material, relative to the *Union*, transpired. On the evening of the latter day it was agreed you should again meet, at the house of Gen. Bailey, some of Col. Burr's friends. At the appointed hour Col. Swartwout, Mr. M. L. Davis, and Peter Irving attended. Shortly after they were seated, Mr. Clinton's name was announced. He entered the room, to the astonishment of the congregated *Burrites*, accompanied by Ezekiel Robins. This gentleman was conspicuous as an advocate of Col. Burr; but he had not been apprised by his friends of the reconciliation; they were, however, embarrassed. After a few minutes pause, Mr. Clinton explained. He stated that he had considered it his duty to call on Mr. Robins, and to inform him of the happy termination of the contest between "*two sections of the Republican party*;" that at his request, Mr. Robins had accompanied him home, from whence he had conveyed him in his (Mr. Clinton's) carriage to the house of Gen. Bailey. Such, sir, was your zeal, at the commencement of this celebrated union, to convene the friends of Mr. Burr, and to meet them.

At this meeting your deportment was frank and open; and if I am not much deceived, you made an impression on the friends of Col. Burr, then present, that you were sincere, and that your future conduct would be correct and honourable. You ardently expressed your wishes for a perfect amalgamation of the parties; and in *promises* you were lavish. *Burrites*, you said, *must* be sent, at the next spring election, from the city and county of New-

York, to the State Legislature. Mr. Peter Townsend *must* represent Orange county—Mr. Joseph Annin, of the senate, *must* be chosen a member of the Council of Appointment, if sufficient interest could be made for him—Levi M'Keen, of this town, *should* be appointed clerk, in the room of Gilbert Livingston, whom *you* would remove from office. To detail all your friendly assurances at this meeting, would be tedious to me, mortifying to you, and not interesting to the public. Certain it is, that your ingenuity and talents were called into operation to impress the Burrrites with the opinion that you was ardent, sincere, and determined on a system of policy that should prove gratifying to them, and flattering to Col. Burr.

There is one circumstance which occurred at this meeting, that demands my notice, and the most sincere animadversions of your party. With respect to the men that enjoy your confidence, it is decisive. As Mr. Riker would say, "*It puts the question at rest for ever.*"

You were informed that the friends of Col. Burr had been in the habit of communicating and consulting freely with each other; that they believed that system of policy most correct; and you were asked with whom of your party they should confer during your absence, if events should require conference. You replied, "*General Bailey and P. C. Van Wyck.*" Yes, sir, these were the men selected by you as the *leaders* of the republican party, and the guardians of that cause, during the absence of Mr. Riker and yourself. These men were to decide on the measures and plans proper to be adopted and pursued, and to express your sentiments and wishes to the Burrrites. And yet your deluded followers have had the temerity to assert that Gen. Bailey was not your authorised agent. Little, very little do they know of your movements. And if they are determined to remain ignorant; if they will not read, examine, and decide for themselves, they merit such *leaders* as Wortman, Clinton, and Cheetham; and may they long feel the effects of their system of intolerance, rebounding upon their own heads! I forbear, because I have neither time nor inclination to comment on the indignity offered to

the republican party, in selecting the two gentlemen you did, as the proper and only persons for the Burr-ites to confer with, when arrangements were necessary to be made with a view to the approaching election, or on any other political subject.

With respect to the proceedings at Dyde's and Martling's, I shall at present say nothing. The public had not, even there, accurate knowledge of the movements of your satellites. I shall now notice your arch and jesuitical letter of the 3d of March, dated Albany, and addressed to Gen. Bailey, with the prompt and honourable answer you received from Col. Swartwout, Peter Irving, and M. L. Davis.—These documents are before me; you also possess them. If I misrepresent, publish them to the world: they will confirm every sentence I utter, and they will decide unchangeably your political doom.

MARCUS.

No. VI.

TO DE WITT CLINTON, ESQ.

SIR,

I KNOW not whether contempt or indignation is the strongest emotion excited in my bosom, on perusing your letter of the 3d of March, addressed to Gen. Bailey: Contempt for the mean and hypocritical manner in which you endeavoured to screen yourself from popular odium—indignation for your false and ungentlemanly indignities. Nor could I comment on this production without asperity, or showing temper, if my mind was not occasionally diverted from it to the frank, manly, and dignified answer, you received from Col. Swartwout, Peter Irving, and M. L. Davis.

On the 20th February, the Burr-ites and Clintonians met at Dyde's, and partook of a supper prepared for the occasion, and which has since been termed the *Union* supper. At this entertainment a number of toasts were drank complimentary to Col. Burr and his friends. The publication of them produced considerable agitation in the Clintonian ranks. The flame was fanned

by a few artful and designing men, who were not invited to the festival, and were, therefore, disappointed and chagrined. These men, in connexion with others that were honest in their views, procured a meeting at Martling's on the evening of the 24th February, where some violent and inflammatory resolutions were passed against the *Union*, and its author. You perceived, sir, that your popularity would sustain a serious, perhaps an irrecoverable shock, unless you could completely free yourself from the appearance of having any knowledge of the negotiations on the subject of the union. To effect this, and thus save from political ruin the chief of the faction, it was determined, as a *peace-offering*, to sacrifice Gen. Bailey.—With this view your letter of the 3d of March was written. You intended that the General should exhibit it to the discontented and dissatisfied.

In the letter alluded to, you remark that you approve of the proceedings at Martling's: that you hope the *imprudence* of your friends at Dyde's will be overlooked; that to receive the Burrrites, is "*universally agreeable*;" but that this reception should be tainted with *promises* of office, &c. would be ruin to your cause. You add, that it was reported, a treaty had been formed, consisting of *five* articles, one of which was, that Wm. P. Van Ness should be Secretary of State; and another, that Col. Burr should be Governor, and that this had been shown to Mr. Eppes, the President's son-in-law. You close, by saying, "Prompt and *efficient* measures should be taken to contradict these *infamous falsehoods*. Perhaps the most proper mode would be, to require frank and "explicit declarations from gentlemen of the Burr party."

This letter was addressed to Gen. Bailey. Why to him? Because throughout the whole transaction he was your agent, and acted under your controul. And when this letter was written, you presumed he would understand the object. Unfortunately, however, for you, the general, in the plenitude of his wisdom, showed it to the three gentlemen already mentioned. Their prompt and energetic answer must have been very unexpected. Did you, sir, imagine, when you wrote your letter, that to make promises to the Burrrites would be ruin to your cause? Or did

you intend to *gull* your adherents, through your agent, Bailey, into a belief that you had made no *promises*? Your design evidently was, to produce an impression that no *promises* or *engagements* had been made by you. This was a trick of perfidy and deception; because through your agent you made all the promises enumerated in my third letter, and personally, on the 24th of January, you *promised*, if possible, to make Joseph Annin a member of the Council of Appointment; and *positively* to make Levi M'Keen, Clerk of Dutchess, in the stead of Gilbert Livingston, whom you was determined to remove from office. Deny the truth of these assertions, if in any point of view they are incorrect. They were made in the presence of general Bailey, Ezekiel Robins, John Swartwout, M. L. Davis, and Peter Irving. I repeat it; these gentlemen were all present when you promised, previous to the meeting of the Legislature, on the 24th January, the offices specified; and yet according to your hypocritical letter of the 3d of March, to make *promises*, would dishonour and ruin your party!

You next refer to a treaty which had been shown to Mr. Eppes, and mention only *two* of *five articles*, it is said to contain. Were the other *three* correctly stated? You close your letter by suggesting the propriety of frank and explicit explanations from gentlemen of the Burr party. Did these gentlemen afford you the explanations required? And were they satisfactory? I will state, as briefly as possible, the substance of their reply.

They admit that there were no conditions relative to colonel Burr, or Mr. Van Ness, of the nature mentioned in yours of the 3d March; and add that the reconciliation was "*on terms of perfect equality*." They also state that this circumstance was within your own knowledge. How within your own knowledge? Because your agent, general Bailey, negotiated, and *you* consummated the union.—They then proceed to require, in return, explanations from you, on certain points, and inform you that their intention is to make your reply public, "with a view to obviate erroneous impressions."

"It is understood, (say they) that you and your friends
"countenance a report, that the exclusion of Mr. Burr is a con-

"dition of the reconciliation. We have, on the contrary, maintained that no such suggestion was made; that no sentiment, *but of respect for Mr. Burr*, was expressed by the gentleman, who acted in behalf of your party: and that in the early stages of the adjustment, the friends of Mr. Burr *pointedly disclaimed* "any idea of the kind." What was your conduct on the receipt of this answer? Did you proceed to discuss the points in dispute, or to defend the position you had taken? No, sir, after inviting, you shrunk from the investigation. You know that the exclusion of Mr. Burr was never contemplated; that his friends would have spurned at, and treated with disdain, any such proposition. You knew the *promises* you had made on the 24th of January, and you was therefore incapable of replying.

Had I not already exceeded the limits prescribed to myself, I should say much more on this subject, but I fear to prove tedious. If, however, I have misrepresented your letter, or the answer you received, I again call upon you to publish them. The letter of Swartwout, Irving, and Davis, does them great honour. It contains some independent sentiments, correctly and elegantly expressed. A few observations more, and I close these papers.

MARCUS.

No. VII.

TO DE WITT CLINTON, ESQ.

SIR,

I HAVE performed the task which I imposed upon myself, and I trust there is not an impartial or disinterested man, in the state, who peruses these letters with attention, but will admit that I have established the following points.

First—That general Bailey was your authorised agent, and with your knowledge and approbation negotiated, and entered into stipulations and engagements with the Burrrites, as to the basis of an union.

Secondly.—That acting as your agent he made certain pledges and promises, which pledges and promises were immediately performed by you.

Thirdly.—That from the 11th January, the day on which the negotiations were terminated, until some time in February, you acted towards your own friends, with *unprecedented duplicity*, inasmuch as you not only kept them ignorant of your arrangement with the Burrites and your meetings with Mr. Swartwout, but in a *sportive* and *ungenerous* manner, imposed upon their credulity, causing them to use their exertions in bringing about that reconciliation which you had previously bargained for, and consummated, and thus placing them before the Burrites in the light of contemptible tools.

Fourthly.—That you excluded from your confidence every member of the legislature, Riker excepted; that you never deigned to consult any of the old and experienced republicans, as to the propriety or policy of an union with the Burrites, until after that union was formed; and that your only counsellors and advisers were general Bailey, R. Riker, and P. C. Van Wyck.

Fifthly.—That you displayed *great zeal* to satisfy the Burrites on the 24th January, by calling on Ezekiel Robins, one of their most ardent friends, at his house, conveying him to yours, and from thence to general Bailey's, in your own carriage.

Sixthly.—That on the evening of the 24th January, at the house of general Bailey, in the presence of *five* gentlemen already named, you *promised* to put into the council of appointment, if sufficient interest could be made for him, Joseph Annin, of the Western District; to remove from office the late Gilbert Livingston, and to appoint in his stead, Levi M'Keen.

Seventhly.—That on the aforementioned evening you were asked, by the friends of Col. Burr, with whom they could confidentially communicate, if communications were necessary on the subject of the approaching election, or any other political business, during your absence, and you referred them to general Bailey, and P. C. Van Wyck, as your confidential friends, thus excluding the whole of that party, of which you are considered the leader.

Eighthly.—That on the 3d of March, you addressed a letter to general Bailey, fraught with perfidy to the Burrites, and duplicity to your own friends,—attempting to make the latter believe you were ignorant of the negotiations with the friends of Col. Burr, whereas you had *personal* interviews with them, and had *personally* made them *promises*.

Ninthly.—That in this letter you invited frank and explicit explanations on the subject from gentlemen of the Burr party, and thus insinuated that you were ready to give them.

Tenthly.—That your letter was promptly and explicitly answered on the 12th March, by Col. Swartwout, Peter Irving, and M. L. Davis, who requested from you explanations as to certain reports said to be countenanced by you, informing, that it was their intention to make your letter public, "*with a view to remove erroneous impressions;*" that after seeking this investigation, you shrank from the contest, and never dared to commit yourself in reply, knowing that such committal must inevitably involve you in an awkward dilemma.

Some inquiries will possibly be made, how an obscure individual should possess an accurate knowledge of all the facts contained in these letters? I answer, that during the whole negotiation, two Burrites of respectability, from the Western District, were in the city of New York, and consulted as to every measure adopted by Col. Swartwout. With both these gentlemen I have conversed freely. From Levi M'Keen I received a part of my information, and from gentlemen in New York, other details. In short, my authorities, I am perfectly satisfied, are, in every particular, correct. But in most instances, I have made references. If I have mistated any facts, where I have referred to particular gentlemen, I call upon those gentlemen, as men of honour, as the guardians of truth, and as the enemies of defamation, to point out my errors and to correct them. I may be assailed by the envenomed shafts of party slanderers, but I shall disregard them. Neither my avocations nor my disposition would justify a long and tedious controversy.

Believing that I have completely established the points above enumerated, it remains for the people to decide between us. I

well know, sir, in this attack, the disadvantages under which I labour. I am willing to admit their force; and I have only to regret that our countrymen, in similar cases, are not more frequently influenced by the objections which will be urged against me.

It will be said, MARCUS is an anonymous writer, unknown to the public, perhaps influenced by a spirit of revenge, and regardless of truth: And it will be added, Mr. Clinton is the *leader* of a party, high in their confidence, and possessing their esteem. These, with many other arguments, will be urged by your adherents. They are reasonable, and deserve the most mature and deliberate consideration of the people. But they deserve it in a pre-eminent degree, at this crisis, when the press is unblushingly prostituted to the vilest purposes; when the most spotless characters in society, are unfeelingly torn and lacerated to accomplish party views; and when public taste seems so corrupted and vitiated, that nothing but the lowest slanders are palatable. I ask only a dispassionate and calm decision. If the facts I have stated are not well established; if a doubt remains on the mind of any man—then would MARCUS, who knows your guilt, plead with that man for your acquittal. I repeat it, our countrymen are too prone to listen to the voice of defamation, and too willing to sacrifice our best and most useful patriots on presumptive evidence. But if on the other hand, the charges I have made against you are well supported, and you appear to them guilty of duplicity and treachery, it is their duty to pass upon you a stern, but just sentence. I have only to say to them, “See that what thou receivest as truth, be not the shadow of it; what thou acknowledgest as convincing, is too often but plausible.—Be firm, be constant, determine for thyself; so shalt thou be answerable only for thine own weakness.”

MARCUS.

PHILO-CATO, No. I.

TO DE WITT CLINTON, ESQ.

IN the *Pseudo American Citizen* of the 14th ultimo, a writer under the signature of *Philo Corregidor*, has renewed the attack on Mr. Worrman with increased virulence and malignity. That paper, sir, is known to be under your controul and direction. To your patronage, it is indebted for its principal support and circulation. To the promotion of your views and interests, it is avowedly devoted. For years has it been employed, not only as a vehicle for the advancement of your ambitious projects, and a system of family aggrandizement, but as an instrument for the prostration of every individual whom you marked for political destruction.†

To such an extent has this system of denunciation and proscription been carried, under *your auspices*, that you now stand isolated in the republican ranks, without a man of talents or integrity in the party, who does not deprecate your conduct, and most cordially despise you. Among the hosts of vermin office-holders; who live upon your smiles; who flutter round your person, and administer to your vanity—there is not to be found a solitary instance of genius, of integrity, or of independence. Such traits of character are not the passports to your favour. The individuals possessing them are discarded from your coun-

† It will be remembered that these numbers were written antecedent to the controversy that now exists between the Editor of the *American Citizen* and Mr. Clinton. From the first ownership of that paper, by the present Editor, up to the period that *Philo-Cato* appeared, there can be no doubt that it has been under the controul of Mr. Clinton, and devoted to his views. A recurrence to its columns will demonstrate this truth. But should further evidence be demanded, it will be found in the fact stated by Marcus, that in the *Burr-Union*, Mr. Clinton, without consulting Mr. Cleechem, contracted for his services, and they were faithfully performed.—PUBLISHER.

cils ; become the objects of your fear or jealousy, and are selected as fit subjects for the lacerations of your press. That Mr. Wortman should dare to think for himself—to act with independence, and pursue the dictates of an honest judgment, are sufficient to point him out as its proper victim.

Whether you are the author of the attack on Mr. Wortman is questionable : that you *approve* of it, cannot be doubted. But, sir, be the writer whom he may, this broad principle is not to be contested—"That the man who countenances and supports a convicted assassin of character, is responsible for his guilt."

On this general ground, the present communication is addressed to you. But there are other reasons of a special kind, arising out of the nature of the attack on Mr. Wortman, that render this appeal to you peculiarly proper and applicable. And I shall greatly deceive myself, if, in the course of it, I do not make your scribbling agent afford another proof of the truth of Junius's remark "that a man may be the bitterest enemy of his friend."

With the *truth* or *falsehood* of the accusations against Mr. Wortman, I have nothing to do. This inquiry *exclusively* belongs to *courts* of *justice*. There Mr. W. has instituted it. A newspaper discussion then, of that question, would be highly improper. It is the *evidence*, and *reasoning* adduced to support the charges, that I shall examine. And if, in the one case, they go to demonstrate the guilt of Mr. Wortman, then, by the same process of logic, do I pledge myself, in a tenfold degree, to establish *yours* ; and that too, in an instance which, for duplicity, treachery and perfidy, has no equal. That this examination may be conducted with some degree of method, I propose strictly to follow the plan adopted in the attack, and for every circumstance adduced as evidence of Mr. Wortman's guilt, I shall cite a parallel, though a much *stronger* one, to *convict you*.

In the first place, it is inferred that the accusations against Mr. Wortman are true, because he has prosecuted his calumniator. That this circumstance should be alledged as evidence of guilt, is to be sure, somewhat extraordinary ; and the ingenious suggester of it, sensible that it could not singly, and alone, answer

his purpose, very dexterously attempts to support it by an assertion that the suits are a "finesse, a mere artifice, invented to procrastinate and evade investigation, and that they will never be tried." What grounds the writer has for making this assertion, I shall leave the public to decide—certain it is, he has not disclosed any. The suits are but just commenced, the writs are not yet returnable, and whether the whole is a "finesse" or not, cannot be determined with any certainty till after the lapse of some months. But if this reasoning be conclusive *against* Mr. Wortman, how *guilty* does it make *you*. How many suits have you brought? They are innumerable. How many have you tried? I aver, *not a single one*. With how much more force and truth, then, the charge of finesse and duplicity may be laid at your door, I shall now proceed to inquire. And that the public may be able to judge between you, I shall state such facts as have been furnished by yourself, and the records of the court, where, if I misrepresent, detection will be easy.

PHILO-CATO.

No. II.

TO DE WITT CLINTON, ESQ.

IN the Albany Register *Extraordinary*, I find the following communication :

For the Albany Register Extraordinary.

January 27th, 1807.

"A *nefarious libel*, under the signature of Marcus, having been recently printed at Poughkeepsie, and industriously circulated in the southern parts of the state, with a view of wounding my feelings, and exciting unjust prejudices against me. I have directed prosecutions to be immediately instituted against the author and publishers, and I *pledge* myself to my friends, that a *judicial investigation* will *demonstrate* the *folly*, the *falsehood* and the *malice* of the charges exhibited against me.

"DE WITT CLINTON.

"ALBANY, January 26th, 1807."

From this publication it appears, First, That you have directed prosecutions to be commenced against the author and publishers of the letters of Marcus.

Secondly, You "pledge" yourself "that a judicial investigation" shall "immediately demonstrate the *folly*, the *falsehood*, and the *malice* of the charges exhibited against you." And lastly, so important and serious to your reputation, did you consider these charges, that you deemed it indispensable to meet and *deny* them, under your *own* signature. And, that no circumstance might be wanting to impress on the public mind; a belief of the *truth* of your denial, and the *sincerity* of your "*pledge*," an Albany Register *Extraordinary*, is issued to give them publicity.

I shall now, therefore, examine how far this solemn declaration has been supported by your conduct; what measures you have taken "*immediately* to demonstrate the *folly*, the *falsehood*, and the *malice* of the charges exhibited against you."

By the records of the court it appears, that the writs against the author and publishers of the letters of Marcus, were returned in February term, 1807. This was the first court after your publication, and was therefore proceeding as rapidly as you could. But this was only *commencing* the suits, and at this time, the legislature were in session, when your "*friends*" to whom you had "*pledged*" your veracity, were assembled in Albany, and it was necessary to keep up with them the appearance of sincerity and some regard for truth and character. But, what have you done *since* that time of your *own accord* to *advance* the prosecutions, "*to demonstrate the folly, the falsehood, and the malice of the charges exhibited against you?*" On the authority of the records of the court, I reply, nothing. You have not *voluntarily* taken a step to expedite the investigation, but, on the contrary, have tried every expedient to procrastinate it. What you have done has been the result of *compulsion*; a compulsion too proceeding from the acknowledged author of the letters, who has been exerting every nerve to bring you to the bar of justice, and which, for three years, you have had address enough to avoid. But that these facts, so *damning* to your reputation, may not rest

in mere assertion, I shall now give the most incontestible proofs.

The writ against the author of the letters of Marcus, was, as has been before stated, returned in February, 1807. By the rules and practice of the supreme court, in twenty days after the return of the writ, this cause so important to your character, might have been *ready for trial*. Did you, in pursuance of your "pledge," (and as every man of honor, tenacious of his reputation would have done, independent of his solemn engagement) take the necessary measures, *immediately*, to place it in this state of forward preparation? Nay, sir, not to confine the inquiry to twenty days, did you within thirty, sixty, ninety, or even an hundred days, adopt any legal measures to demonstrate to the world what you had the hardihood to assert, that the charges of Marcus were a "nefarious libel." I pledge my honor to the public and your "*friends*" whom you once deceived, but whom I shall now undeceive, that *you did not*. Nay, sir, not days, but *months, ten months* elapsed, before you filed your declaration, which is only the *second* step in the cause, and to this you were *compelled*. I repeat it, *compelled*. For the defendant, tired of your delays, and anxious that the public should know your real character, and the part you acted in the famous *Burr Union*, directed his counsel to *goad* you on, and if possible, to bring you to the bar of justice. For this purpose, on the 27th of October, 1807, the following rule was entered in the office of Mr. Fairlie the clerk of the supreme court, in the city of New-York.—"Matthew L. Davis, at the suit of De Witt Clinton. On motion of Colden and Dey, attorneys for the defendant, ordered, that the plaintiff declare, before the end of the next term, or that he be *non-prossed*." This rule is a matter of record, and may be seen by any person who will have the curiosity to look at it. In consequence of this order, you were obliged to declare in your suit before the end of the next term, subsequent to the 27th of October, or be dismissed from court. The time was certainly liberal, and longer than was customary to grant. But did you declare *within it*?—I again aver that you did *not*. That, as *your* object was delay, your attorney solicited an *extension* of the period. And as it was

always the defendant's purpose to bring you if possible to a *trial*, and to avoid every thing that might interrupt a fair investigation of his charges against you, the indulgence asked was granted. Your declaration, however, was not served till the 10th of December following, making almost a *year* from the commencement of the suit, to the *second* stage in it.

Now, sir, let me ask your "friends" to whom you "pledged" your veracity, and the public, whether you have pursued that course, and used that expedition which an injured character demanded, and which in the face of the world, and under the sanction of your name, you had *engaged* to adopt?

How much the reverse of all this is the conduct of the defendant. Your declaration is served on him on the 10th of December. By the rules of the court, he had twenty days to reply to it. He asks no extension of the time, and even *within it*, on the 28th of the same month, files his answer. It is an interesting document, and for the sake of my countrymen, who have been hitherto too easily duped by your intrigues, I thank my God that it is on *record*. Every man may do as I have done—go and *read it*. It is worth his perusal. It discloses *more* than the letters of Marcus, and opens a scene of political perfidy and treachery, unrivalled.

But, sir, from the 29th of December, 1807, by the exertions of the defendant and his compulsory orders, your cause has been *ready for trial*. What have you done in it *since* that time? Has it once been set down for a hearing? It has *not*. Three years have expired, and it still hangs in suspense. What occasions the delay? Within that period, Mr. Livingston has *twice* convicted your editor, and sent him to prison; and governor Lewis has made him confess that his charges against him were *false*, and in his own paper record his infamy. Why have you not done the same, if the letters of Marcus are "*a nefarious libel*?" May I not now retort upon you, with some force and truth, the language of Philo-Corregidor, that your "*suits are a finesse*," a mere "*artifice to gain time, to evade investigation, and that you never will try them*."

PHILO-CATO.

No. III.

TO DE WITT CLINTON, ESQ.

FROM the preceding statement it must be evident to every intelligent reader, that, had your suits progressed with ordinary dispatch, and according to the usual practice of the court, the issues would at this moment, have been *three* years old, and might have been tried *two* years ago. Why, let me ask, was this not done? What are we to infer is the cause of so much dilatoriness? Such delays do not characterize your usual conduct. Why then so tardy in the instances before us? Are not the charges exhibited against you in the letters of Marcus, of the "blackest cast," Affecting your character, not only as a politician, but as a man of integrity and of truth. That they are of this description, every person who has read them must affirm. You had, therefore, every inducement that could stimulate an honourable mind, independent of your 'pledge,' to proceed without delay in the promised judicial investigation. Why then, let me repeat the inquiry, did you not? The answer is obvious—it was *never* your intention to meet the charges of Marcus in a court of justice. This you dared not do, as I shall now demonstrate.

When your hardy denial of the accusations of Marcus first appeared, honest men of all parties were astonished. Friends as well as foes were confounded. Your partizans, fearfully anxious as to the course you would pursue in a situation so embarrassing, saw in the one adopted your certain disgrace and ruin. Your political opponents, though well aware of your duplicity, and the wily character of your mind, discovered in this act a new and alarming proof of its degeneracy and corruption. In a deed so depraved and desperate, the moralist beheld his theory of the progressive nature of vice, in an instant prostrated; while the gloomy misanthropist was furnished by it with additional and more cogent reasons for his detestation and abhorrence of his own species. But so daring and flagitious an innovation upon the principles of moral rectitude, demanded a correspondent exertion to meet and counteract it. At a crisis so interesting to

the cause of virtue and of truth, the public mind was naturally directed to Marcus. How so peremptory a negative of the truth of his allegations, accompanied with a 'pledge that a judicial investigation should immediately demonstrate their folly, their falsehood and their malice,' could be effectually resisted, was viewed by some as a task of no little difficulty. It was, however, an easy one. The idea of a 'judicial investigation' was instantly embraced. An offer, emanating from it, was promptly made, that put your sincerity to the test. If you accepted of it, your conviction and exposure were inevitable. If you declined it, your falsehood and hypocrisy were apparent. And that the reader may see that there is no escape from the inference, I have drawn from your *refusal*, I shall now submit to his perusal the proposal that was made to you. In doing this, I must for a moment, call his attention to dates, that he may perceive the alacrity and *promptitude* with which it was made.

Your denial was published at Albany the 27th of January, 1807. By the course of the mail, at that season of the year, it did not reach Marcus, at New-York; till the 2d of February. A few days were unavoidably consumed in devising the most effectual mode of detecting and exposing your baseness and duplicity. The result was, a determination to meet you upon your own terms, and to go to trial instantly. For this purpose, instructions were sent to Mr. Wm. Neilson, the editor of the *Barometer* and the publisher of the letters of Marcus, who resided at Poughkeepsie, directing him, through his attorney, to submit to you in writing, the subjoined propositions.—Their date will manifest, that in coming to this decision, and in making the requisite arrangements for its execution, no time was unnecessarily wasted.

SUPREME COURT.

Thomas Nelson,
ads.

De Witt Clinton.

{ The same,
ads.

{ The same.

SIR,

PLEASE to take notice that I am retained as attorney for the defendant in the above entitled causes: and as such attorney,

I do hereby agree to receive a declaration, and plead *issuably* thereto *instantly*; and further, that a rule be immediately entered by consent, if required on the part of the plaintiff, for a struck jury. And also, that the causes be tried at *any* circuit court within this state, at the election of the said plaintiff, provided that such circuit be held before the 20th day of April next, and so waive any other and all other legal objections that might be made on the part of the defendant to prevent the causes from being tried at the said circuit court. Dated February 12th, 1807.

T. RUDD, defendant's attorney.

To. J. TALMADGE, jun. esq. plff.'s attorney.

Upon the above proposition a few explanatory remarks are deemed necessary.

By the offer 'to receive a declaration and plead *issuably* thereto *instantly*,' I understand from professional gentlemen, First, That legally you could not file your declarations which stated the grounds of your complaint, *until* the writs were returned. That the agreement, therefore, of the defendant *immediately* to accept of them, waved that objection, and of course was calculated to save time and expedite the investigation. Secondly, That to 'plead *issuably*' is to put the *facts* in issue, to abandon formal technical grounds, and to try the causes upon their *merits*. Thirdly, That to prepare his pleas, the defendant had, by the rules of the court, twenty days. That when Mr. Neilson therefore agreed to plead *instantly*, he dispensed with that indulgence, and bound himself to file *forthwith* his answers.

Again,

By the offer 'that a rule be immediately entered by *consent* for a struck jury,' if the plaintiff required one, I understand Mr. Neilson conceded to you the following advantages, to which you otherwise would not have been entitled.—First, By the practice of the court, you were not entitled to a struck jury, upon legal grounds. Secondly, The striking or selecting of the jury, is an act done by a particular officer of the court, and without meaning to impeach the integrity of either of the gentlemen, whose province it is to perform these services, I may be permitted to say

what is known to be the fact, that they are your devoted friends. Mr. Neilson, therefore, by *consenting* to a struck jury, gave you an opportunity of having your causes tried by men selected by your friends, and perhaps too out of your own political party.

Again.—By the above proposal you were permitted to try your suits ‘at *any* circuit court within the state.’ You could, therefore, have had the charges of Marcus investigated in Suffolk, Orange, or any other county, where, from family connections, or influence, or the number of personal or political friends, your chance of success was the greatest. The only limitation annexed to all these important privileges was, that the causes should be tried before the *twentieth* of April. This period was designated for a very obvious and satisfactory reason; and one that it was fair to presume would have received your approbation.

It will be recollected that at the *last* of the said month of April, an important election was to take place, which, it was considered, would decide for some time, at least, your political destiny. If the accusations of Marcus were groundless, nothing could have been more desirable to an innocent man, than to have had an opportunity of demonstrating their falsehood, *before* this period arrived, and in sufficient time to communicate the result to the remotest parts of the state. But if they were true, it was certainly most prudent in you to avoid a court of justice, where your guilt and falsehood were sure to be exposed. Mr. Neilson’s proposals were therefore rejected in toto, and when I come to analyze the reasons assigned for this measure, I shall show that they are not only without foundation, and even destitute of plausibility, but that they afford the clearest evidences of your turpitude.

Upon the propositions of Mr. Neilson, and their rejection, one general reflection must present itself to every reader—That they could not have been made without a consciousness of the truth of his accusations, nor rejected but upon a full conviction that they could be established against you by the most clear and decisive testimony.

PHILO-CATO.

No. IV.

TO DE WITT CLINTON, ESQ.

THE subjoined letter, stating your reasons for the rejection of Mr. Neilson's proposals, is published verbatim et literatim, as it was received. Whether it is to be considered as the joint production of Mr. Talmadge and yourself, or as his, separately, it is a source of some surprise that it should be found to be so inaccurate and obscure. Where Mr. Talmadge was educated, or whether he was educated at all, I know not; but I have understood that he has been a candidate for a seat upon the bench of the supreme court, and that he is considered as possessing *all* the talents of his family. That in intellect he surpasses even his brother the judge, that luminary of the law. Possessing such high pretensions to literary fame, and a surrogate too, it is a matter of no little astonishment that he should mistake *on* for *at*, *principle* for *principal*, *celebrity* for *celerity*, &c. &c.

But charitable criticism would be willing to ascribe these inaccuracies to precipitancy, if any solution could be found for that poverty of language, confusion of arrangement, and inelegance of style, which characterizes the whole production; and especially for that obscurity which renders particular passages totally incomprehensible. The one printed in *italics* is of this description, the meaning of several other sentences may, with some difficulty, be *conjectured*, but this, as it now stands, is unintelligible. But, reader, judge for yourself: if you are disposed for a puzzle, here you have it.

SIR,

I HAVE received a proposition in writing from you, relative to prosecutions for libels, brought by De Witt Clinton *versus* Thomas Neilson, and am instructed by the plaintiff to reply, that he was well aware that in instituting prosecutions for the malignant attack upon his character, no expedients would be left untried by the unprincipled men who had projected it, to avail themselves of any advantage, and of political prejudices

and passions, to avert impending punishment. That under this impression, they now propose to bring the cause to trial on the eve of a general election, when the community will be agitated by political interests, a period of all others the most unfriendly to fair and impartial inquiry. That in case of a verdict against the defendant, it will be attributed by the plaintiff's enemies to political partiality; and if the defendant, contrary to every principle of justice, should escape from merited punishment, it must be entirely owing to the existence of political antipathies, which would prevail at a period so inauspicious to impartial investigation. That the plaintiff would certainly prefer a time, when the public mind would be more tranquil and composed, and less liable to undue impressions, and when his enemies would not be under such strong inducements to resort to improper means in support of their calumnies. That in addition to these impressive considerations, it must be well known to the defendant, the plaintiff had not seen the libellous publication on which the suits are brought, until his arrival at this city, and that by the common course of the legislature, he will be detained in this place by his public duties until some time near the middle of April. The court in the city and county of New-York, where the venues will be laid, and where the witnesses mostly reside, sits on the sixth of April; and of course, under your proposition, no time will be left for the plaintiff, even to return home, or devote any personal attendance to the collection of testimony, and to other points connected with a trial so important to him.

These propositions are made on the presumption that it would be impracticable to try the causes before the 20th of April. It must be obvious that there is not the remotest probability of this event, as a struck jury would not give the causes a precedence, and being the latest issues, they would be on the bottom of the calender. *To close then with your proposition, would effectually destroy the inference intended to be drawn from a contrary course, without removing any of the above inconveniences to an invidious and deceptive proposition, to which the plaintiff can never assent.* The plaintiff has also instituted a suit against the author of the present libel. He intends first to meet in a court of justice the

principle in this malicious attack ; and after his return from the legislature, will improve the *first* opportunity to bring that cause to a final issue. After these remarks, it only remains for me to inform you that the declarations will be delivered to you as *soon* as they can be drawn, and are examined by the counsel, and that the plaintiff will bring the causes to trial with as much *celebrity* as a due regard to their importance and nature will permit.

Yours, &c.

JAMES TALMADGE, jun. Atty. for plttf.

To THERON RUDD, esq. Att'y for dft.

Albany, February 14th, 1807.

Upon reading this letter, the most careless observer must remark the laboured manner in which you endeavour to excuse yourself for declining Mr. Neilson's liberal offer. What is that offer? Stripped of its technical phraseology, it is simply this.—“ I have published the letters of Marcus.—You term them ‘ a nefarious libel,’ and ‘ pledge’ your veracity to prove them such, in a court of justice.—I accept the challenge—consent to wave all legal delays, to relinquish all legal privileges, to try the causes immediately on their *merits*, in *any* county of the state, and by a jury of *your own selecting*.”

To preserve your reputation, and refuse so generous an offer, was indeed no easy task ; it was more than any human being could perform. But it must be attempted, and the abortive effort will be seen, in every paragraph of your production. Nay, sir, so anxious are you to justify your own conduct on this occasion, that in your zeal to vindicate yourself, you proceed one step further, and endeavour to convince the defendant that the rejection of his terms will be for *his* interest. So much benevolence was not to be expected from such a quarter, and let me add, that it is not in unison with the spirit and style of your letter.

In analyzing this letter, and exposing its fallacy, I shall be brief, but I hope satisfactory. You begin with harsh epithets, calling Marcus and Mr. Neilson ‘ unprincipled men,’ and the pamphlet ‘ a malignant attack upon your character,’ you then proceed to observe ‘ that in instituting your prosecutions you were

well aware that no expedients would be left untried to avert impending punishment.' Now, sir, what expedient is here referred to? Is it any other than an offer by the publisher to meet you, forthwith, in a court of justice, there to test the malignancy of the attack? This is a new mode of 'averting impending punishment.' But you object to the period proposed for investigation, 'at the eve of a general election, when the community will be agitated by political interests.' If there be any force in this objection, it militates as much against the defendant's rights as yours: but there is no weight in it, and in point of truth, it is not well founded.

By your own statement it appears, that the court sat in New York on the sixth of April, and the election did not take place till the 28th of that month. Aware of this fact, you endeavor to resist its influence by the suggestion that, on the sixth of April, you would 'be engaged in your public duties at Albany.' This is a pretty good parry, and might protect you, if it were not well known that upon former occasions you were not quite so scrupulous, and could, when circumstances required it, leave your legislative functions, to make electioneering visits to New York. It may, however, be supposed, that though there was this interval of time between the sitting of the court and the election, still the public mind might, in some degree be agitated by the approaching contest. Admitting the possibility of the fact, I reply that all difficulties on this head were removed by the tender of a *struck jury*. From that moment, it was in your power, and became the duty of the clerk who struck the jury, to have it composed of characters that belonged to *no party*, who had no political attachments or antipathies to gratify, by their verdict; but as honest men, acting under the solemnity of their oaths, would impartially consider and decide the questions submitted to them. To urge that such characters could not be found, would be a libel on the city of New-York. But it is evident, that the offer of a struck jury, is an embarrassing one to you. Conscious that it secured the trial of your causes, at the April court, you very artfully attempt to give a different impression, by observing, that 'it gave no precedence to the suits.' Though it should be conceded, that

this is *now* the practice of the court, it is understood that it was *not* such in April, 1807. But whether struck jury causes, by the practice of the judges, have or have not the precedence in trials, you well know that they always obtained it through the courtesy of the gentlemen of the bar; and I now pledge myself, that whenever you bring to trial your suit against the author of the letters of Marcus, (should that most improbable event ever happen,) that the oldest cause upon the calendar (if one older than it can be found,) shall yield precedence to yours.

With one remark more on your very extraordinary letter, I shall conclude this number. You alledge that you did not see this 'libellous publication' of Marcus, till your arrival in Albany, and assign *that*, as an additional reason for your not being prepared for a speedy investigation.—This, sir, is a mistake, and I hope nothing *more*. It must however be corrected. The letters of Marcus *first* appeared in the Barometer, and you saw them in New-York, before you met them in a pamphlet shape in Albany.

PHILO-CATO.

No. V.

TO DE WITT CLINTON, ESQ.

THOUGH I have already occupied some time in animadverting upon your self-convicting epistle, I must beg the reader's indulgence, while I devote a few moments to the concluding paragraphs of it.

Mr. Talmadge speaking of you, observes, that 'the plaintiff has also instituted a suit against the *author* of the present libel. He intends first to meet in a court of justice the *principle* [meaning *principal*] in this malicious attack, and after his return from the legislature, will improve the *first* opportunity to bring that cause to a final issue. After these remarks it only remains for me to inform you, that the declarations will be delivered to you as *soon* as they can be drawn, and that the plaintiff will bring the

causes to *trial* with as *much celebrity*, [meaning *celerity*] as a due regard to their importance and nature will permit.'

From what has already appeared, these assurances can *now* be viewed in no other light than as false and hypocritical, and there is too much reason to believe they were given in that spirit. Instead of 'improving the *first* opportunity to bring the cause to a final issue;' it has been shown that you have suffered it to sleep for *three* years. Instead of delivering the declarations 'as soon as they can be drawn,' nearly a year passed before they were received, and then only in consequence of the *compulsory* orders of the defendant. But more of this as we proceed.

Having exhibited in my last number the extraordinary exertions that the *publisher* made to *drag* you into a court of justice, I shall now proceed to state the measures that the *editor* took, to effect the same object. I now, therefore, *aver* and *challenge* you to contradict it, at your peril, that after you had publicly announced your determination to prosecute, a formal offer was made to you by the author of *Marcus*, to dispense with all the legal forms of delay, and to try the truth of his allegations, in any one of four counties that were named, the choice to be yours, and in which, it was known, that circuit courts were *ever* to be held, for the trial of such issues. The counties specified were Dutchess, Albany, New-York, or your native *County*. *Orange*, where your father, and most of your connections, *as well* as it was to be presumed, if you had friends, they would be found. This proposal, so reasonable in itself, was so *conducive* to you, had you been innocent, you rejected, *imagining* as a *reason*, that you had not *time* to prepare for the trial. Permit me now to observe, that, if innocent, you wanted no *time* for preparation. All that was necessary for you to *examine*, was the *fact* of publication, and this it was agreed to *admit*—It was the *business* of the defendant to prepare; he might well *reasonably* have had time, because he was to justify, and to collect the evidence to prove what he alleged.

But you acted *in the defensive*. In your *answer* to the *offer* was more than *pitiful*—it *implied* a *total* *and* *unqualified* *variation*. But it was *your* *last* *and* *only* *answer*, and it was

day, to *prepare*, though you have had time to cast about and see whether a *smuggled* adjustment of the controversy could not be effected.

And here, sir, I alledge, and call upon you to contradict it if you dare, that the suit against the publisher has been *privately* settled! Upon what terms? I demand it of you to state them. The public have a right to know them. Has Mr. Neilson paid any portion of the costs of prosecution? I am informed, from the best authority that he has *not*. That in the adjustment it was understood he was not to be called upon for any of the expenses incurred. Has he made you any apology for the 'nefarious libel' published against you? He has not. Two attempts were made to procure one, but without success. Mr. Neilson treated the application as an insult, and rejected it with indignation. He knew the ground upon which he stood, and set you at defiance. What then was done? You received no apology, and paid costs! What did you obtain in return? A paper, purporting that Mr. Neilson published the Letters of Marcus at the request of a *third* person, and that of his *own knowledge*, he could not say the allegations they contained were true—he might have added, or false.—And how could he? He was not of the number of the high contracting parties that met at Gen. Bayley's to barter away the privileges of the people, and when the traffic was completed, to celebrate the event by a festival at Dyde's. Mr. Neilson did not belong to this chosen band. With propriety, therefore, he might certify, that of his *own knowledge*, he knew nothing of the truth or falsehood of the accusations of Marcus. But did this prove that they were a NEFARIOUS LIBEL? Was this redeeming your 'pledge,' that 'a judicial investigation should demonstrate the folly, the falsehood, and the malice of the charges exhibited against you?' If I have mistated the contents of Mr. Neilson's certificate, it is in your power to correct me—I invite you to publish it.

But who is this *third* person, at whose desire the Letters of Marcus were published?—those letters that are so fatal to your

reputation—Is this the notorious ——— ? † Yes, sir.—At his solicitation they were written, and on his guarantee they were published. He became security to the editor of the *Barometer*, to indemnify him against any recovery that might be had in the event of a prosecution. He was therefore a fit agent to select, to effect the compromise. Through his instrumentality, the *smuggled* adjustment that has been mentioned, was made, and which is so *honorable* to your reputation.

This miscreant is *now* your bosom friend—press him to your heart, for he is a kindred spirit. He can deceive, “and smile, and smile, and be a villain.” He possesses a congeniality of soul that should render him very dear to you. The preservation to him of his office was not the only boon he demanded for his services. The divisionists of *Duchess* must also be sacrificed to remunerate them. For this drivelling proselyte, you abandoned that cause and interest which you had engaged to support. To obtain the services of this apostate, you discarded your old and tried friends—men who had supported you in every stage of your political career, and to whom you are in a great measure indebted for the standing you *once* had in the republican party.—Upon so dear and meritorious a friend, have you no *widowed* relative to bestow ? Ambrose, De Witt, and Robert,—what a trio of honorable brothers !

In the course of these numbers, I shall probably have occasion to give a sketch of the character of this political swindler. I shall shew that he has gone the rounds in politics. That he has deceived and betrayed every successive party to which he has been attached. That, though illiterate in the extreme, he is by nature cunning, and from habit systematically treacherous. This man *now* professes to be your friend—how long he will continue so, the next council of appointment will decide. Already has he manifested symptoms of disaffection. Let me caution you to beware of him. Remember Iago !

† Can a certain Country Judge tell us who is here meant ?

Upon the question of preserving entire, or dividing the county of Dutchess, I beg it may be distinctly understood, I give no opinion. I hardly have a right to form one, as I do not reside in the county, and I certainly have not the means, having no knowledge of the merits of the case. My only object in the statement that has been made was to exhibit the parts that, upon that occasion, you and your friends acted; and to show, that with equal facility, you can violate an engagement, and prostrate the interests of the first county in the state, for the meanest wretch within it. Nor have those who advocated the integrity of the county any reason to be flattered by your support. They well know that you had pledged yourself to an opposite course, and that nothing but the most fortuitous occurrences could have prevented the division. I might pursue this subject much further, and show the tricks, that in relation to it, were played off in the legislature, for two successive winters. But I forbear.—The topic is disgusting one, and shall therefore return to your champion, Philo-Corregidor.

The next allegation of Philo-Corregidor against Tunis Wortman, to prove the insincerity of his appeal to the laws of his country, is that he hath upon other occasions brought suits to vindicate his character and hath never tried them. And here a reference is made to the attack upon him by Aristides. Whether Mr. Wortman commenced any prosecutions, bottomed on this attack, I know not, nor is it my business, upon the plan I have marked out for myself, to enquire. But of this I am certain that your friend has been very unhappy in alluding to this pamphlet. In truth, such a fatality attends all his references, that it would seem as if the attack on Mr. W. was a masked one against yourself. That Aristides has made you a prominent figure in his production, and chastised you with the severest animadversions, no one that has read it, will deny. What redress did you seek? The autho "pretended not concealment"—He directed his name to be given to you, if your object was an *honourable* satisfaction. To bring you, if possible, to this point, he left the examination of your political conduct and went *out* of his way to offer you a personal insult of the grossest kind. The reader may see

it in the 63 page of Aristides.† But this course did not suit 'the delicacy of your *nerves*.' What then did you do? You prosecuted the publisher. What has become of the suits? They have been privately settled. Has any apology been made to you by the author as the ground of the adjustment? None. But with a servility and meanness disgraceful to a man of honor, he has since been *promoted*, with your approbation. He is now a Judge of Columbia county. This single fact develops your character, and shows the texture of your mind, more than volumes could do.

PHILO-CATO.

No. VI.

TO DE WITT CLINTON, ESQ.

IN my former numbers, I have endeavoured to establish (with what success the public must decide) the following position: First, that no conclusion hostile to the reputation of Mr. Wortman, could be fairly drawn from the legal measures which he had adopted. Secondly, that if these were to be tortured into evidence of *his* guilt, then by the same process of reasoning I pledged myself, in a ten-fold degree, to establish *yours*. To substantiate this position, I referred to your *own acts*, and to the *records* and *authentic* documents of our courts of justice. From them I learnt that you had commenced innumerable prosecutions for libels, and incredible as it may appear, in *no instance* that had fallen within my research, has one of them been brought to a public investigation. Why they have been immemorially sus-

† The following passage, it is conjectured, is the one referred to. Aristides, speaking of Mr. Clinton, observes that he is, "destitute of personal resolution, proofs of which have been *abundantly* exhibited, in a manner disgraceful to himself, and *offensive* to his friends," &c. Independent of the direct charge here made, of pusillanimity, let the '*depository of Mr. Clinton's honor*,' tell us what is meant by the word '*offensive*?' PUBLISHER.

pended, or clandestinely smothered, you can best inform. It is my business to state *facts*; let the public draw the inferences.

Here, sir, I might rest the evidence, and relying upon the authority of your advocate Philo-Corregidor, pronounce you *guilty* of all the accusations preferred against you. But I would not insult the good sense of my countrymen by committing such an outrage on their understanding. Fallen, despised and contemptible as you now are, I should be the last man in society, to render you injustice. It is my wish and intention that your political conduct should be fully and impartially examined, and reiterating the pledge of Philo-Corregidor, if I live it shall be done. With this view, I selected for *immediate* examination, the boldest feature in your political career, what your friends denominate, a *chef d'œuvre* of intrigue, but which, if I am not deceived, the world will pronounce, before this investigation closes, the vilest scene of political hypocrisy and profligacy, that has ever been portrayed—I mean the part *you* acted in the celebrated *Burr Union*. To give you the full benefit of your defence upon this occasion, and that no unfairness might be imputed to me, the inquiry was commenced with a verbatim publication of your *hardy* denial of the accusations, which, on this subject, were preferred against you, in the very able letters of Marcus. This denial, sir, from what the documentary evidence has already disclosed, must by all good men be considered as the highest proof of desperation and depravity. It could not have been made until all hope of *support* to your character from any other quarter had vanished; till the moral sense had become extinct; and the strongest barrier of virtue had been prostrated—What was this denial? It cannot be too often recurred to, or too strongly impressed on the recollection of the community.

In it you ‘pledge’ yourself to your friends, under the signature of your own name, that the charges of Marcus are ‘*false*’ and that a ‘*judicial investigation*’ should *immediately* ‘demonstrate it.’ I have shewn, sir, from the *records* of the court, which cannot exaggerate, that you have violated, in *every particular*, this solemn promise. That the grossest *remissness*, has marked your legal course in every stage of it. That every step, excepting the first

which you have taken towards a judicial investigation, has been the effect of *compulsion*: That every artifice, that could be devised to procrastinate it, you have adopted; three *years* have elapsed since the suit against the *author* has been instituted, and yet during *all* that period, not even an *attempt* has been made, to bring it to a trial. And to show, sir, a strong probability that you *never* will bring the enquiry to a judicial investigation, I have stated the following facts:—

First, that a formal proposition was made to you, to wave all the forms of delay, and to go to trial *instantly*. To try the cause in your *native* county, if you preferred it, and to admit the *only* fact that it was incumbent upon an *innocent* plaintiff to *prove*. These offers you *rejected*, and as I have demonstrated, upon *false* and *groundless pretences*. Secondly, that the suit against the publisher is adjusted, upon the *honorable* terms that have been mentioned, and that through the agency of the *very man* by whose procurement the letters of Marcus were written, and on whose guarantee they were published.

From the review that has been given of your various legal prosecutions, and from the nature of the defence I have undertaken, I feel myself justified in concluding this branch of the inquiry in the language of your champion Philo-Corregidor.—“The hardest villain in society may bring a suit; may appeal to the laws of his country, for what he calls a vindication of his character. But is that his real object? Is it not a mere *contrivance* to conceal his *guilt*? Invented to procrastinate investigation till the accusation is forgotten, and then the *prosecution is heard no more of*. Have you not practised this *artifice before*? I have understood, and believe, that you appealed to the laws of your country for redress upon the charges exhibited against you by *Aristides*. They were of the *blackest cast*. The author is well *known*; he pretends not concealment. What measures have you taken to vindicate your injured reputation? Your *nerves* would not permit you to make him *personally* responsible. On this point he bid you *defiance*. Has the law then afforded you any redress?”

This, sir, is not very courtly language; but I trust it will not ruffle the amiability of your temper, or discompose the sweet

serenity of your brow. It comes from your advocate, and if the conjecture of the *Evening Post* be correct, from your *friend*, your *very dear friend*, *Aristides*—from the very man, who, after having exhibited you in all the guilt and deformity of which human nature is susceptible, was, with *your approbation*, appointed a judge of Columbia county, and a *Director* of the Hudson Bank. From the very man, who, while *you* were in the legislature, obtained what he afterwards cited as one instance of his *influence over you*, an act incorporating a Turnpike Company, and fixing the road to pass by *his door*. But it seems that *Aristides* is now with *you*, *authority*. His word is perfect verity. It fixes unalterably the destiny of character. For this purpose Philo-Corregidor, has referred to him to prove that Mr. Wortman is a ‘scoundrel.’ But why was not the *whole* passage quoted. I will give it entire, and then let the community judge, *who* is the ‘scoundrel.’ Who has set the offices of the state up at *market*, and disposed of them, to the ignorant, the profligate and abandoned. Who has made *personal* devotion the *only* road to official dignity and emolument? If Mr. Wortman is the ‘scoundrel,’ you would have us believe him to be, with what epithets shall we brand *him*, who *knowing* it, appointed him to an office of the greatest trust and confidence, in the disposal of the council. But let us hear *Aristides*. Speaking of you, he observes, ‘When called on to justify the outrage upon the honor and dignity of the city, [alluding to the appointment of Mr. W. as city clerk] Mr. Clinton increased the atrocity of his conduct by exulting in the mischief he had done. Though he is a great *scoundrel*, he has been of *service* to the *party*, and *ought* to be *rewarded*; were the words he uttered. Here is a direct avowal of the principles upon which he acted. A complete confirmation of the charges which have been urged against him. It is irresistible evidence that the *public* good had no influence in determining his conduct—It is the ne plus ultra of political depravity, and establishes his guilt in every mind that is not impenetrable to conviction.’

But, sir, since you have referred us to *Aristides*, we presume if he is authority in one case he is equally so in another—With your permission then, we also will quote a few passages from him,

and with them conclude this number. Speaking of the system of *selfish* policy, which *you* have invariably pursued, and of its ruinous effect upon the republican party, he proceeds, in a spirit prophetic of the events of the day, in the following glowing strain :—

“ Instead of harmony and union among the friends of freedom, instead of a consolidation of the republican interest, calumny and dissensions are rapidly producing symptoms of decay and dissolution—every part of the country is manifesting the most anxious solicitude, and the apple of discord, rolling through the land, is every where generating discontent, disorder, and confusion. These scenes are hazardous and alarming, and derogatory to the dignity of our government—they are the awful annunciations of dissolution to our party, with whose ruin will disappear the bright prospects of happiness which have but just beamed upon the people. That enlightened system of national policy, which has its origin, in the principles that prevailed at the revolution, will be prematurely terminated by the hands of intemperate foes, and the cause we espouse overwhelmed in its infancy. But Mr. Clinton, no doubt, can view with unconcern the poisonous divisions which have been introduced among us, because he has not sagacity to foresee the evils they may engender; because he has neither the candor to avow, nor the sensibility to lament his errors, nor his crimes. The portentous clouds that occasionally float through the atmosphere, or hang on the political horizon, excite no emotions of sorrow in *his* bosom, because no change can render him more *odious* to the community, nor shorten the duration of his *appointment*: but let this Felix tremble, for it is well said, that he who sows the seeds of ruin, has the harvest of iniquity! He will one day be called to atone for the evils *he* has produced. However late, that period must arrive. He has *hazarded* the prosperity of the party, and *sported* with the welfare of the people. The day of retribution must come, and he should prepare for the awful sentence that awaits him.”

PHILO-CATO.

No. VII.

TO DE WITT CLINTON, ESQ.

WE now approach the most important part of this investigation.—The very pith and marrow of it are now before us.—On the result of the enquiry, your honor or your infamy depends. In conducting it, therefore, I shall consider myself bound to pursue the advice of Cicero. *Ne quid falsi dicere audeat, ne quid veri non audeat.* Neither to dare to advance what is false, nor to suppress what is true. Keeping this principle as the governing one in view, I shall fearlessly advance to the examination, firmly resolved ‘nothing to extenuate, nor set down aught in malice.’

You have ‘pledged’ yourself to the public, that the letters of Marcus are a ‘*nefarious libel*,’ that the charges they contain of the part *you* acted in the Burr union, are ‘*false*,’ and that a ‘judicial investigation’ should ‘immediately’ demonstrate it. I have shewn, sir, from the *records* of the court, that the promised ‘judicial investigation’ *has not* been, and most certainly *never will* be made—That in this respect, therefore, you have *deceived* your friends and *violated* a most sacred promise. It now remains to enquire into the truth of the assertion that the *charges* are ‘*false*.’ But from this investigation I am in a great measure relieved by the general notoriety of their truths, and by your own conduct, which can be viewed in no other light, than as a tacit *admission* of it. Without intending, therefore, to enter into a minute examination of this question, I shall, in the course of these numbers, satisfy, on this head, the most sceptical. Previous to commencing the inquiry, propriety demands that the accusations should be precisely and accurately stated, that the public mind may be qualified to pronounce a just judgment. With this view, ~~I shall~~ ^{depend on} avail myself of the technical language and precision of the ~~law~~. By him the charges are *embodied* into legal form and *certainly*, and placed upon the *records* of the court, there forever to remain an indelible evidence of *his* falsehood, or of your *guilt*. From them they are extracted, and now presented to the public, accompanied with one request only, that they may be read *again* and *again*, till they are distinctly understood and perfectly retained.

Fellow citizens! it is not an *anonymous* production that you are now invited attentively to peruse. It comes to you *adopted* by the *defendant*, *sanctioned* by his *name*, and *taken* from the *records* of the court.—Read then, and consider what follows.

PHILO-CATO.

SUPREME COURT.

Mathew L. Davis, ads. De Witt Clinton.

And the said Mathew, by Cadwallader D. Colden and Anthony Dey, his attornies, comes and defends the wrong and injury, when, &c. and says that he is not guilty in manner and form, as the said De Witt above complains against him, and of this he puts himself on the country, and the said De Witt likewise, &c.

COLDEN AND DEY.

City and County of New York, ss.

Mathew L. Davis puts in his place, Cadwallader D. Colden and Anthony Dey, his attornies at the suit of De Witt Clinton, in the plea aforesaid.

SIR,

Please to take notice that the defendant will upon the trial of this cause, give in evidence under the plea by him above pleaded, according to the form of statute, in such case made and provided—that at the times of printing and publishing of several words and matters charged in the plaintiff's declaration as libel, to wit. the thirteenth day of January, in the year of our lord one thousand eight hundred and seven, and long before, and until that time and since, and at the several days and times herein after mentioned; there have been and existed in the state of New York, and yet are, two political sects or parties, one whereof, has during all the time aforesaid, and at the several times aforesaid, been called and known by the name of Clintonian party, and the other whereof, has during all the time and at the several times aforesaid, been called and known by the name of Burr party, and that divers citizens of the said state of New York, have during all the time aforesaid, and at the several times aforesaid, belonged or been of or attached to the said Clintonian party, and

that divers other citizens of the said state, have belonged or been of or attached to the said Burr party, and that the said citizens of the said state, who belonged to or were of or attached to the said Clintonian party, held political sentiments and opinions of men and measures, different and adverse to the said citizens who belonged to or were of or attached to the said Burr party, and that the said citizens who belonged to or were of or attached to the said Burr party, held political sentiments and opinions of men and measures, different and adverse to the said citizens who were of or belonged or were attached to the said Clintonian party, and that during all the time and at the several times aforesaid, the said plaintiff was one of or belonged to or was attached to the said Clintonian party, and hath always been considered as one of the chiefs or leaders of the said Clintonian party. That the said plaintiff had during all the time aforesaid and at the several times herein mentioned, great influence with the said citizens who were of or attached to or who composed the said Clintonian party, and that the said citizens who were of or attached to or composed the said Clintonian party during all the time and at the said several times have been much governed, influenced and directed by the orders, directions, advice or council of the said plaintiff.

And the said defendant will give in evidence as aforesaid, that during all the time aforesaid, and at the several times aforesaid, one Aaron Burr was one of or belonged or was attached to the said Burr party, and has always been and considered as one of the chiefs or leaders of the said Burr party, and that the said citizens who were of or composed or were attached to the said Burr party, were much attached to the said Aaron Burr, and always had great confidence in him and in his counsel and advice.

And the said defendant will further give in evidence as aforesaid, that on or about the eleventh day of January, in the year of our Lord one thousand eight hundred and six, there was a certain agreement, or union, or coalition, or alliance made between some of the said citizens who were of or belonged to or composed the said Clintonian party, and some of the said citizens who were of or belonging to or composed, or were attached to the said Burr party, and that the said agreement, or union or coalition, or

alliance, was suggested, instigated and advised by the said plaintiff, and brought about and effected by and thro' his means and procurement, and that the said agreement, union, coalition or alliance, was suggested by the said plaintiff and brought about by him and by his means and procurement with the design and intent to strengthen his said political party and thereby to maintain himself and his partizans in office. And the defendant will further give in evidence as aforesaid, that one *Theodorus Bailey*, at the several times herein mentioned, was one of the said citizens composing or belonging or attached to the said Clintonian party, and that at the said several times the said *Theodorus Bailey* was the agent of the said plaintiff, and acted by the advice and procurement of the said plaintiff, in endeavouring to bring about, and in bringing about and effecting an agreement, coalition, alliance, or union of the said political parties, and of the said citizens who respectively composed or belonged or were attached to the same as aforesaid. And that the said *Theodorus Bailey* acknowledged himself and was acknowledged by the plaintiff to be the authorised agent of the said plaintiff for the purpose aforesaid. And the defendant will further give in evidence, that one *John Swartwout* was at the said several times, also one of the citizens who were of or belonged, or were attached to the said Burr party, and one of the said citizens composing the said Burr party, and that at divers days and times between the 24th day of December, in the year 1805, and the 11th day of January, in the year 1806, the said *Theodorus Bailey*, as such agent of the said plaintiff, had divers meetings and conversations with the said *John Swartwout*, and at each and every of the said meetings, the said *Theodorus Bailey* as such agent of the plaintiff as aforesaid, did converse with the said *John Swartwout* respecting an agreement, union, alliance or coalition of the said parties, and that on the said eleventh day of January, in the year last aforesaid, as such agent as aforesaid, of the plaintiff, in behalf of himself and the said plaintiff, and of other citizens of the said state, who belonged or were attached to the said Clintonian party, did agree with the said *John Swartwout* and others in behalf of himself and themselves and others of the said Burr party to the terms of an agreement, coalition, alliance or

union between the said Burr party and the said Clintonian party, which terms were as follows.

Firstly, that *Col. Burr* should be *recognized* by the union as a *republican*. Secondly, that the *editor* of the *American Citizen* should *desist* from all attacks upon *him* or his *friends*, that he should *advocate* the union, if it became *necessary*, in his paper, and that he should *not* defend the *Burrites* as *returning* to republican principles, they persisting that they never had *abandoned* them. Thirdly, that the friends of *Col. Burr*, as it respected *appointments* to *offices* of *honor* or *profit* throughout the state, should be *placed* on the *same footing* as the *most favored Clintonians*, and that their *Burrism* should *never* be *urged* as an *objection* to their filling those offices. Fourthly, that at the *approaching election* in April, the *Burrites* should have a *portion* of at least *one third* of the *representatives* of the city and county of *New York*, in the state legislature. Fifthly, that *De Witt Clinton* should see that they (the *Burrites*) were *accommodated* to any reasonable amount they might require, in the *Manhattan Bank*, and that he should *actually* procure for an individual in the course of the *next week* an accommodation in said bank of at least *eighteen thousand dollars*.

And the defendant will further give in evidence, as aforesaid, that on the *thirteenth* day of January, one thousand eight hundred and six, the *Manhattan Bank*, in *pursuance* of the *fifth* article above specified, *loaned* for the accommodation of the said *John Swartwout*, a large sum of money, to wit, the sum of *nine thousand dollars*, on the *sixteenth* day of the same month, last aforesaid, the same bank *loaned* for the accommodation of the said *John Swartwout*, another large sum of money, to wit, the sum of *nine thousand dollars*; and that in pursuance of the same *fifth* article above specified, *other considerable* sums of money were loaned by the said bank for the accommodation of *other* citizens belonging to, who were of, or were attached to the said *Burr party*. And that *before* the said loans were so made as last aforesaid, the said citizens for whose use, accommodation and benefit they were made, could *not* procure *any loans* or *discounts* from the said bank, and that when the said *several* loans were so made, the said *Plaintiff* was a *director* of the said bank.

Burr party, with abandonment of principle, and with being a "vile and daring faction," and that after the said agreement, alliance, union, or coalition of the said parties, the said James Cheetham, in the said public newspaper, complimented and panegyricized citizens who were attached or belonged to the said Burr party, for their "eminent services as republicans!—and for their inflexible attachment to the said Aaron Burr!"

And the defendant will further give in evidence as aforesaid, that on the 24th day of January in the year last aforesaid, the said plaintiff and the said John Swartwout and the defendant and one Peter Irving, and one Ezekiel Robbins (which said defendant, Peter and Ezekiel were at all times herein mentioned citizens of or were attached or were belonging to the said Burr party) had a meeting. That the said Ezekiel was brought to the said meeting by the said plaintiff, and was informed by the said plaintiff of the agreement, or coalition, or union, or alliance aforesaid, and of the terms thereof, or some of them, and that the said plaintiff at the said meeting spoke of the said agreement or union, or alliance, or coalition between the said parties, and expressed his satisfaction therewith, and approbation thereof. And that the said plaintiff at the said meeting made many promises to the citizens who belonged or were attached to, or were of the said Burr party, who were present. And that the said plaintiff at the said meeting expressed himself in words to the following effect.—'That Burrites must be sent the then next spring election from the city and county of New York to the state legislature. That Mr. Peter Townsend *must* represent Orange county, Mr. Joseph Annin of the Senate *must* be chosen member of the Council of Appointment, if sufficient interest could be made for him. That Levi M'Kean should be appointed Clerk in the room of Gilbert Livingston, who he (the said Plaintiff) would REMOVE FROM OFFICE.'

And the defendant will further give in evidence, that at the said meeting, last aforesaid, the said plaintiff solicited one of the persons there present, viz. the said defendant, to set off immediately for Orange county to visit the aforesaid Peter Townsend, and

to communicate to him the terms and conditions of the said union reconciliation or compromise, and to ascertain with certainty, whether the aforesaid Peter would agree to the aforesaid arrangement, and act accordingly—and that the said defendant, in pursuance of such solicitations and requests, did leave the city of New York, on the 25th of January last aforesaid, on a visit to the said Peter, and having received his assent, wrote to the said plaintiff on the morning of the 26th, from Chester in Orange county, informing him of the circumstance. And the said defendant will further give in evidence, that at the said meeting, last aforesaid, the said plaintiff was told by one of the citizens who were present at the said meeting, to wit, by the said defendant, that the citizens who were, or who belonged or were attached to the said Burr party, had been in the habit of communicating and consulting freely with each other, that they believe that system of policy most correct, and the said plaintiff was then and there asked with whom of his party they should confer during his absence, if events should require conference; to which the said plaintiff replied General Bailey and Pierre C. Van Wyck.

And the defendant will further give in evidence as aforesaid, that on the 20th day of February, in the year last aforesaid, certain citizens who were of, or attached, or who belonged to the said Burr party, and certain citizens, who were of, or attached, or belonged to the said Clintonian party, met at a certain house in the city of New York, called Dyde's Hotel; and then and there partook of a supper prepared for the occasion, which has since been called and known by the name of the *union supper*, at which supper a number of toasts were drank complimentary to the said Aaron Burr, and to the citizens of the said Burr party; and that afterwards, to wit, on the 24th day of the same month of February, in the same year last aforesaid, a meeting of certain citizens of the said state of New York, was held at a certain house situate in the said city of New York, called Martling's tavern, and that the said last mentioned citizens, so met as aforesaid, then and there passed certain resolutions against the said union alliance, agreement or coalition between the said Clintonian party and the said Burr party, or between certain citizens belonging to

the said Clintonian party and certain citizens belonging to the said Burr party; and that afterwards, to wit, on the third day of March, in the same year last aforesaid, the said plaintiff wrote a certain letter to the said Theodorus Bailey, bearing date on the same day and year last aforesaid, which said letter was received by the said Theodorus Bailey; in which letter, among other things, the said plaintiff says in substance, 'that he the said plaintiff hoped the *imprudence* of his friends at Dyde's will be overlooked; that to receive the *Burrites* is *universally agreeable*, but that if this reception should be *tainted with promises of office*, it would be *ruin* to your cause; that it was *reported* a *treaty* had been formed consisting of *five* articles, *one* of which was that William P. Van Ness should be secretary of state, and *another* that Col. Burr [the said Aaron Burr meaning] should be governor; and that this treaty had been shown to Mr. Eppes, the president's son-in-law—that *prompt* and *efficient* measures should be taken to *contradict these infamous falsehoods*—perhaps the most proper mode would be to require frank and explicit declarations from gentlemen of the Burr party.'

And the defendant will further give in evidence, that before the plaintiff wrote the said last mentioned letter, to wit, at the said meeting on the 24th of January, in the year last aforesaid, as well as on other days and times, the said plaintiff had made many promises of offices to citizens who belonged or were attached to the said Burr party, and that these promises were made upon the 'express condition and consideration of the said union of said Clintonian and Burr parties, and in pursuance of the terms or articles of agreements aforesaid.

And the said defendant will further give in evidence as aforesaid that at the time the said plaintiff wrote the said last mentioned letter, he well knew that there was no treaty containing such articles as stated in the said letter; but that the said letter of plaintiff was an artful device of the plaintiff.

And the said defendant will further give in evidence, as aforesaid, that on the 12th day of March, in the same year last aforesaid, the said John Swartwout, the defendant, and Peter Irving wrote, and sent to the said plaintiff, a letter, bearing date the same day and year, last aforesaid, which is as follows.

NEW YORK, March 12th, 1806.

SIR,

General Bailey has communicated to us your letter of the 3d instant, noticing the following reports—1st. That O. Phelps had told some gentlemen at Albany that he had been shown a treaty, the articles dictated by Mr. Burr, one of which was, that Wm. P. Van Ness should be appointed secretary of state.

2d. That a paper, purporting to be a treaty of five articles, one of which was, that Mr. Burr should be governor, had been transmitted to Mr. Eppes, the president's son-in-law.

Your letter suggests that frank and explicit declarations should be required from gentlemen of the Burr party.

We freely declare that we understand the conditions of the reconciliation to be a mutual oblivion of those animosities which have divided the republicans of this state into hostile parties, commonly called Burr and Clintonian, and a re-union of those parties on terms of perfect equality.

Mr. O. Phelps disavows having received any information or advanced any assertion of the kind ascribed to him, he presumes the report to have originated in conversation with Mr. Nicholas at Albany, in which he may have repeated rumours he had heard.

The paper, if any shewn to Mr. Eppes, has doubtless been transmitted to Washington, by some enemy of the COALITION. The non-existence of any such treaty, is within your own knowledge.

We are confident that no friend to Mr. Burr would circulate a fabrication on the subject.

Having thus made the declarations required, we take the liberty of requesting *some in return*, equally frank and explicit.

Our friends have been assured that the meeting at Martling's, was the act of violent and misguided individuals; they have also been induced to look to Albany, where at present the different parties of the state are represented, and to expect that public and decisive measures would be then taken, recognizing the union in terms satisfactory and honorable to both parties.

They have therefore overlooked the gross insult cast on Mr. Burr, and on themselves, in the resolutions there passed. We now understand that those proceedings and resolutions are sanctioned by yourself and your friends at Albany.

It is understood that you and they countenance a report that the exclusion of Mr. Burr is a condition of the reconciliation. We have on the contrary maintained that no such suggestion was made, no sentiment but of respect for Mr. Burr expressed by the gentlemen who acted in behalf of your party; and that in the early stages of the adjustment, the friends of Mr. Burr, pointedly disclaimed any idea of the kind.

It is said that Col. Rutgers and other influential individuals of your party have declared themselves *pleased* with meetings at Dyde's and Martling's, because they would help to keep the Burrites down; and it is added, that letters to that effect have been recently written to you.

Our friends have relied on the sincerity and good faith of yourself and party. Aware that efforts would be made to excite jealousies and embarrassments, they have disregarded rumours, overlooked the expressions of individuals, and suppressed their indignation at the proceedings of a public meeting. We are however perfectly willing to exchange frank and explicit declarations for the satisfaction of our respective friends. They appear *requisite* to remove existing disgusts and produce that cordiality of feeling, which can alone cement and confirm the RE-UNION.

It is proper to apprise you that we wish to communicate *your reply* to several of our friends, with a view to obviate erroneous impressions.

We are, Sir.

Your most obedient servants.

J. SWARTWOUT.

P. IRVING, M. L. D.

And the said defendant will further give in evidence as aforesaid, that the said plaintiff, afterwards, to wit, on the 20th day of the same month of March, received the said letter, and that the said plaintiff never returned any answer to the said letter,

to the persons who had addressed the same to the said plaintiff, or to any or either of them. And the defendant will further give in evidence, that in the year of our Lord one thousand eight hundred and one, the plaintiff was a member of the council of appointment of the state of New York, and that the said plaintiff while he was a member of the said council as aforesaid, did vote for turning out of office persons who were venerable patriots and war worn soldiers, though the said persons had always faithfully and competently discharged the duties of their respective offices. And that the said plaintiff voted for the turning out of the said persons for no other reason than because they were not of the said Clintonian party. That among the said persons who the said plaintiff did vote as aforesaid for turning out of office were, Robert Benson, Daniel Hale, Ebenezer Foot. And also that the said plaintiff was a member of the said council in the year 1806, and that the said plaintiff while he was a member of the said council as last aforesaid, did vote for the turning out of office other persons, for no other reason than because they were not of the said Clintonian party; that among the said persons who said plaintiff did vote as aforesaid for turning out of office were, Thomas Tillotson, Nicholas Schuyler and Garnit Wendle.

And the defendant will further give in evidence that the said plaintiff, and others of the said Clintonian party, who were and are his nearest connections and most intimate friends, have had largely the emoluments of the offices of the said state. And the defendant will further give in evidence as aforesaid, that the said plaintiff hath at divers times, before the publication of the several matters, charged as libels in this cause, openly declared that no man should hold an office who was not of the said Clintonian party—that every man should be turned out of office, who was not of the said party, and that he would vote for turning out of office every man who was not of the said party, and that he would not vote for the appointment of any man to office who was not of the said party.

And lastly, the said defendant will give in evidence as aforesaid, that on the 10th day of February, 1806, at the city of Albany, that the said Ezekiel Robbins had called upon him, and

made an *apology* to him for violent expressions that the said Ezekiel Robbins had before that time made use of towards and concerning the said plaintiff. Whereas the defendant will give in evidence and PROVE that the said Ezekiel Robbins did not previous to the day last aforesaid, or any other time, make any apology to the said plaintiff for any expressions used by him the said Ezekiel Robbins, towards or concerning the said plaintiff. Dated New York, 26th Dec. 1807.

COLDEN AND DEY, atty. for defendant.
S. COWDREY, atty. for plaintiff.

NO. VIII.

TO DE WITT CLINTON, ESQ.

IN my public appeals to you, I am not actuated by the vain hope of kindling repentance through the severity of censure, or of awakening remorse by the pungency of truth. To those who know not your character, I leave such delusive expectations. That my addresses should offend you, and that your tools should complain of them, does not surprise me. Neither the matter nor the style of them are calculated to soothe their feelings, or advance your fame. But the duty I have undertaken to discharge, is paramount to such considerations. The sacred pledge I have given to my fellow-citizens, forbids me to play the courtier. The full developement of your political career demands the plain and energetic language of sincerity and truth. Oblations to your vanity and your pride, must not, therefore, be expected. The public are to be informed, and not you flattered. Too long it has been your dupe.

But the period of delusion is past. The hour of detection and exposure is at hand. The day of retribution has arrived. The veil of hypocrisy is now for ever to be rent from you. The thick foldings of your character can no longer conceal your political depravity. It shall be my business fully to expose it. To place you for judgment before that tribunal that is authorized to pronounce your sentence. What it will be, may be anticipated

from the sensation the document accompanying my last number universally excited. The turpitude it disclosed, could be equalled only by the indignation that it inspired.

Fellow citizens! I requested you to read that document with attention. You have done so. Many of you have preserved it as an evidence of corruption and of perfidy, unrivalled in the history of human depravity. Permit me to repeat my request, and to solicit you to read, with equal attention, the document that accompanies these remarks. It will amply repay you for your trouble. The former was the *record* statement of the part which the *Honorable* Mr. Clinton played at the celebrated Burr-Union. The ope now presented to you is Col. Swartwout's sketch of the same great personage, in the same vile and disgraceful transaction. See him as pourtrayed in both delineations, and then pronounce his doom.

PHILO-CATO.

TO THE PUBLIC.

A statement, published by Gen. Bailey, in the American Citizen of this day, referring to the transactions in which I was directly concerned, requires, in my opinion, an immediate notice.

On Friday last, the 28th instant, Gen. Bailey called on me. He appeared *agitated*, and informed me that he was *urged* to publish a reply to certain charges made in the Morning Chronicle, and that it would be best to state the grounds of the *late union*. I told him that he must be cautious, and reflect before he adopted such measures—that I suspected an intention in some of his party to *sacrifice* him, if they found it expedient. He replied, that he would make no publication, without *previously* submitting it to my inspection, and left me under the most *solemn assurances* that he would do nothing, without *first* consulting me.

On Sunday, about one o'clock, I called at Gen. Bailey's house; he then stated to me, that Mr. Cheetham *insisted* on his making a publication, but that he would *not* comply, until he had shown me the manuscript. For this purpose he wished me to be at home during the afternoon and evening. I heard nothing

from the General until about ten o'clock in the evening, when I received the following note :

' DEAR SIR,

" I mentioned to you this afternoon, that I meant to offer to your perusal what I was writing upon the subject of *what has been* called the *union* ; but I have been interrupted in its preparation by company, and had not completed it this evening, when sent for by the printer. You will, therefore, excuse the omission. I have requested Mr. Cheetham to send you a proof-sheet, when struck—I am persuaded it is what you will approve.

I am respectfully yours,

THEODORUS BAILEY.

March 30th, 1806.

COL. SWARTWOUT."

The above note was delivered to me by a lad. I asked if it required an answer : He replied, that it was handed to him by a gentleman in *the street*, whom he did *not* know. Immediately on perusing the note, I went to Gen. Bailey's house : he was not at home.—I then sent to the office of the American Citizen, my compliments to General Bailey, supposing him to be there, requesting that he would call on me. He observed, in reply, that a gentleman was with him who was in delicate health, and that this circumstance might prevent his calling.* I will here observe, that the office of the American Citizen, is nearly opposite to my house, and that the General had to pass my door, on his return home. Sometime after eleven o'clock he came, and handed me the letter of Mr. Cheetham, which accompanies his statement in the Citizen, informing me that his reply was in the press. I now perceive that his publication is dated on Friday.

* The gentleman here alluded to, is judge Talmadge, the son-in-law of governor Clinton, and first cousin by marriage to Mr. De Witt Clinton.

I must apologize for these minute and apparently unimportant details; they serve to show the EVASION and PREVARICATION which have been resorted to on this subject.

The letter of general Bailey, being replete with error and *misrepresentation*, I feel it incumbent on me to make a brief statement of some facts, relative to the origin of the late *union*—I shall avoid naming gentlemen, or repeating conversations, except where *compelled* by that letter.

In the latter end of December, a gentleman of respectability informed me, that the *leaders* of the Clinton party evinced a solicitude for a reconciliation with the Burrites. About the same time, Mr. M'Keen, gave similar information to myself and other gentlemen, observing that *Gen. Bailey*, and other persons of equal standing in the party, had conversed with him on the subject, and that the general wished an interview with me. I replied that I was in habits of familiar intercourse with that gentleman, and if he desired to see me, I could always be found. On the 5th of January, *I received a note from Gen. Bailey, requesting to see me in the evening*. I accordingly waited on him, when he soon introduced the subject of a *union of parties*. I remarked, that two points must be clearly understood before I could enter upon such conversations. *First*, that the friends of Col. Burr, would never consent to *abandon* him; that on political subjects, *his friends were their friends, and his enemies their enemies*.—He answered, that *nothing of the kind was expected*. *Secondly*, Do you act from *authority*, or simply as an individual? To be plain, Gen. Bailey, do these *propositions come from Mr. De Witt Clinton*, who is esteemed the chief of your party, or from yourself merely? He answered, they *come from Mr. Clinton*, who is *desirous to meet you and your friends; to bury past animosities; and to re-unite on fair and honourable terms*. Subsequent to this conversation I met the general with *other gentlemen of respectable standing in his party; and by his proposition, in behalf of Mr. D. W. Clinton, had an interview with that gentleman, at Gen. Bailey's house*.

The particulars of these meetings, I do not think necessary to repeat; I must, however, declare, that the *exclusion* of Mr.

Burr, was never in the remotest degree suggested by any gentleman of the Clinton party, with whom I conversed. On the contrary, whenever his name was mentioned, it was in terms of the highest respect. Great solicitude was manifested, that the suit of Mr. Burr, against the editor of the American Citizen, should be discontinued. I observed, that none of Col. Burr's friends had such authority; and expressed a confidence, that the result of the suit, would fully establish to the world, his innocence of the charges exhibited against him.

I will merely add, that in this negociation, I explicitly understood the Burrrites to be recognized, as a distinct party, or rather a distinct section of the republican party, and the *re-union* to take place on terms of entire equality. No arrangements were made or contemplated but such as, in my opinion, were honourable to the Burr party, and not dishonorable to the Clintonians.

JOHN SWARTWOUT.

NEW YORK, March 31st, 1806.

No. IX.

TO DE WITT CLINTON, ESQ.

TO set about *proving* the 'union,' after the preceding history of it by Col. Swartwout, would be a work of supererogation. No person acquainted with his character can doubt either his veracity or accuracy. The existence, then, of the compact can no longer be controverted, without impeaching the candor or intelligence of the reader. Should, however, further proofs of *your* agency in projecting and accomplishing it, be demanded, they will be found in the detailed statement of Marcus, which contains intrinsic evidence of its truth; in your acquiescence in it for *three* years, in violation of your 'pledge,' and in the explicit avowal of the fact by general Bailey, in the very incipency of the transaction.

To this point, let me solicit a momentary indulgence, while I recall the attention, to the questions put by Col. Swartwout to Gen. Bailey, in these emphatic terms. 'Do you act from authority, or simply as an individual?' 'To be plain, Gen. Bailey, do these propositions come from *Mr. De Witt Clinton*, who is esteemed the chief of your party, or from yourself personally?'

Mark the answer; there is no ambiguity, no equivocation in it. It is plain and categorical. 'They come from *Mr. De Witt Clinton*, who is desirous to meet you and your friends, to bury past animosities, and to re-unite, on *fair and honorable terms*.'—Nor is this all: Col. Swartwout then subjoins, 'Subsequent to this conversation, I met the general, with other gentlemen of his party, and by his proposition, in *behalf* of *Mr. De Witt Clinton*, had an interview with that *gentleman*, at Gen. Bailey's house.'

After this disclosure, sir, in what situation does your character for veracity stand? In what light must be viewed your unqualified denial of the union, and the allegations of Mr. M. L. Davis, the acknowledged author of the letters of Marcus? If he is to be believed; if Col. Swartwout is to be credited; if any reliance is to be placed upon your own agent, Gen. Bailey, or upon the fair interpretation of your conduct, as developed in the tardy measures of your legal proceedings, you stand convicted of a gross and wilful prevarication, and of deliberately publishing it to the world, under the sanction of your name. This ignominious fact demonstrates a degree of mental degradation and depravity, that if it were not established by the most clear and decisive testimony, could not and ought not to be credited. But its truth, to the disgrace of human nature, seems to be placed beyond controversy, and must forever sink you in the estimation of the wise and virtuous. If any act evidencing a greater dereliction of principle, or a more complete prostration of the moral sense can be cited, I confess I am ignorant of it. In the whole catalogue of mean and degrading vices, I know not one so repugnant to the character of a gentlemen, or the high and delicate sentiments of a man of honor. But I forbear to press this subject further. —It is to me a loathsome one, and I shall, with cheerfulness leave it, to return to the '*interview*' referred to by Col. Swart-

wout. At this interview, the '*fair and honorable terms*' of the re-union were discussed and finally concluded between you.

The first stipulates, 'that Col. Burr *should* be recognized as a republican.'

From this article of the treaty, the conclusion is irresistible that he was *before* not considered as such. And by whom? By you, sir; you had denounced him as an apostate from the republican cause—as an unprincipled demagogue—ambitious, daring, intriguing, and dangerous to the public liberty. What was the consequence? He lost the confidence of his country, and was discarded from its councils. If your accusations were false, in what terms of reprobation shall we express our abhorrence and detestation of their author? If true, what must be thought of *him*, who, knowing them to be so, could enter into such an unprincipled stipulation? Had Col. Burr's character, by any subsequent course, undergone any moral or political renovation?—It had not. Had the public sentiment in relation to the offences imputed to him, experienced any favorable change? It had not. Had he done any act to explain, palliate, or atone for them, or that tended in the smallest degree to reinstate him in the public estimation? He had not. And yet you had the audacity to contract for his cordial reception into the bosom of the republican party, and to barter away the free and independent sentiments of the people. Nor is this all; the *manner* of your doing it, is not the least offensive feature in the transaction. 'Col. Burr *should* be received.' Here, sir, you play the master, and treat the people as your vassals. With more than eastern despotism, you will not allow them the common volition of slaves. He '*should* be received,' without condition, limitation or restriction. Nothing but the most unconditional acquiescence, and abject submission, will satisfy you.

Secondly. 'The editor of the American Citizen *should* desist from all attacks upon him [Burr] or his friends, that he *should* advocate the union, if it became necessary, in his paper.'

Upon this point, I shall not controvert your authority. No person who has read the columns of the American Citizen, or who is acquainted with the close connection that has subsisted

between you and its editor, can, for a moment doubt, that he has for many years been under your absolute controul and direction. All that I desire of the reader is, to remember this fact when he reflects upon the calumnies that for the last twelve months, have teemed from that press, against Mr. Jefferson, Mr. Madison, and the prominent measures of the general government. Should he require further proofs of your authority, I must refer him to the files of the Citizen for the winter of 1806, where he will find the editor performing the *identical* engagements stipulated for him in this article of the compact. He will there see him eulogizing the patriotism and services of the Burrrites, (whom he had before been in the habit of representing as the most unprincipled and daring faction that ever disgraced any country) and in two lengthy numbers *advocating the union*.

It is true, sir, that *recently* you have discarded Mr. Cheetham. To enter into a minute examination of the reasons for this conduct, would be foreign to my purpose. It will be sufficient to state, generally, that the republican party, having denounced your editor for his calumnies against the general government, you deemed it indispensable to the preservation of your standing with them, to acquiesce in the measure, to preside at the meeting that adopted it, and to sign the sentence of condemnation.

It now appears, that many of these calumnies, and the grossest of them, were derived from you, and that Cheetham, relying upon your authority, and acting in obedience to your wishes, published them to the world. With great force and propriety, then, does he complain of your perfidy and injustice, in sacrificing him as the peace-offering for your own iniquities. I am not the advocate or apologist of Mr. Cheetham;—God forbid it! But of this I am certain, that I speak the sentiments of the great body of republicans, when I affirm, that whatever they may think of the treachery, they despise the traitor. To this man, more than to any individual, or scores of individuals, do you owe your political elevation. For the advancement of your interests, official and pecuniary, his time, talents and property, have for years been employed, and it must be confessed with too much success for the welfare of the state. And is it for these services

that you have denounced him? After this let us hear no more of 'ingratitude'! First to betray him into errors, and then to make those very errors the ground-work of your accusations, and the cause of his ruin. For the honor of our species, it is to be hoped, that such instances of baseness are but rare. This is a refinement upon the modern system of 'pulling down reputation,' that is unrivalled. To the happy fertility of your genius we are indebted for the discovery, and to the goodness of your heart, we owe its unblushing avowal and practice. Truly, sir, in this invention, you have no competitor. The honor and the glory are all your own.

But the evidence of your hostility, and that of all your connections and friends, to Mr. Jefferson, and the measures of the general government, does not rest upon Mr. Cheetham's testimony alone, or on a *single* act of yours. It is derived from numerous and authentic sources; is well known to many of the most conspicuous characters in the state, and is of long standing. It owes its origin to the official discomfiture of your cousin Genet by Mr. Jefferson, when secretary of state. The exposure of his diplomatic ignorance, and gasconading insolence, the petulant Frenchman never could forget or forgive. Hence his *recent* fulminations against Mr. Jefferson and Mr. Madison, in a series of Essays, under the signature of '*A Citizen of New-York*,' a work, which, though avowed to be his, is well understood to be the joint production of yourself, judge Spencer and Genet; and which I would humbly recommend to the perusal of the last and present executive of the United States, whenever they wish to know the sentiments of the Clinton family in relation to themselves or their administration. These essays, if my memory serves me, first appeared in the Albany Register, and were afterwards printed in a pamphlet, and industriously circulated throughout the state, and particularly in the western district.

The Albany Register is well known to be under the direction of judge Spencer. During the last presidential contest, it took a decided stand against the administration, and some of the most inflammatory and dangerous pieces that appeared again:

the measures of government, and the unity of the republican party, issued from that press. The following extract, taken from the first Register that presents itself, will exemplify the justness of this remark.

“ Let us give to Cæsar, what belongs to Cæsar. The embargo is the undisputed property of a few *southern* systematic politicians, who contemplate to *divide very soon*, in two departments, our respectable state, to diminish our importance, and to give the government of our severed member, to some of their *devoted emigrants*. I consider the *late* measures as *ruinous, inefficient, incompatible with the organization of this country, and highly alarming* for the *permanency* of the union, and the *duration* of the *republican and constitutional interests*.”

Independent of the false and insidious intimations which these paragraphs contain, of the views and tendency of the measures of the general government, in relation to this state, I cannot refrain from noticing, in a particular manner, the dastardly attack that is made upon one of our most respectable citizens. The ‘*emigrant*’ referred to, is Mr. John Nicholas, to whom compared, your De Witts, your Spencers, and Genets, are as the glow-worm to the sun in its meridian splendor. Mr. Nicholas is a man of sound understanding, of enlarged views, and of the most impeccable integrity. That he cordially despises the cunning and legerdemain tricks of our state jugglers, is most true. *He* marches direct to his object. He obtains his point, by the most fair and honorable modes, and would rather lose it, than succeed by the artifices of intrigue and duplicity. This high-minded man, it was soon discovered, was made of materials, that would not suit *your* purpose. He must, therefore, be destroyed. This was a primary object with your party. To accomplish it, the presses and party writers, at command, have seized upon his character with fiendlike fury. And that nothing might be omitted that was likely to diminish his weight and influence in the western district, the jealousy of the honest yeomanry is assailed. They are now told that ‘they are to be *severed*’ from the state, and to have John Nicholas ‘*a southern devoted emigrant*,’ placed over them; devoted to what? Every

honest man who knows him must reply, to the welfare and happiness of his country. But what say you, De Witt Clinton and judge Spencer? To Mr. Jefferson and Mr. Madison. And do *you*, honest gentlemen and good patriots, alledge this against him as a crime? O shame, where is thy blush?

PHILO-CATO.

No. X.

TO DE WITT CLINTON, ESQ.

WHEN Mr. Genet married into governor Clinton's family, he carried with him the acrimonious feelings and keen resentments which are excited by ignorance exposed, and pride humbled. Educated for the diplomatic corps, and bred in European courts, he had imbibed their prejudices, and formed a humble and degrading opinion of the American character and intellect. Viewing us in point of stability and improvement, but little superior to the aborigines of the country, he landed on our shores under the full conviction that the foreign relations and concerns of the government could be moulded and directed as he pleased. That public law, and the relative rights of free and independent nations, were subjects beyond our depth. Impressed with such sentiments, to be foiled in the outset, upon his own ground and with his own weapons, by a man who claimed no other title than that of citizen, was a reverse of fortune not contemplated. To support it with dignity, required more magnanimity than was to be found in the frivolous mind of Genet. From that moment, his resentment became excessive. To gratify it, was a primary object. An alliance with governor Clinton's family promised a speedy and ample indulgence. To enlist the old man under his banners was considered no difficult task, and promised the most flattering success. At a period of life, when the passions are the strongest, and the judgment the weakest, it required no great address to infuse into the mind of the father, the antipathies of the son. The result proved that the wily Frenchman had not

miscalculated. It was soon discovered, that the poison had taken effect, and was festering with rancorous malignity in the breast of the governor. To prevent its diffusion, through the body politic, was the anxious endeavour of his friends. But it was to no effect. His mind had been so artfully assailed, and his passions, naturally irritable, wrought to such a pitch of phrenzy, that his wonted circumspection abandoned him; and he did not hesitate to declare, in a promiscuous company, and at the eve of an election that was to decide the republican destiny of the union, "that he had long entertained an unfavourable opinion of Mr. Jefferson's talents as a statesman, and his firmness as a republican; that he conceived him an *accommodating trimmer, who would change with times, and bend to circumstances*, for the purpose of personal promotion."

Such were the sentiments entertained by the head of the family, and I shall now show that they pervaded every branch of it. That though from prudential reasons, they have for a season been repressed, they have never been subdued. That for the purpose of accomplishing favourite political objects, it has been deemed expedient, occasionally to profess admiration of Mr. Jefferson, and attachment to the measures of the general government, when neither were felt. That this hypocritical course originated in a system of selfish policy, that waited only for a suitable occasion to throw off the mask, that concealed the most implacable hostility. But be not alarmed, sir: it is not my intention, at this time, fully to explore this labyrinth of duplicity and baseness—to detail the various intrigues and deceptions, the numerous sarcastic speeches, and sly insinuations, which you and all your connections, have been in the habit of practising, and disseminating against the administration and the measures of the general government. For this disgusting detail I have, at this moment, neither leisure nor inclination, and it is the less to be regretted, as the facts are now generally known in this state, and throughout the union. Avoiding, therefore, this loathsome review, I shall for the present, confine myself to a few prominent instances of political turpitude and deception of a grade and character not to be mistaken, and which I shall locate, by the most

indubitable testimony and references, upon every conspicuous member of the Clinton family.

The first that presents ~~himself~~ to notice, and whose conduct pre-eminently merits the severest reprobation, is your very worthy and honorable brother judge Spencer. He was the second to governor Clinton, who tore the vizor from his face, and openly denounced Mr. Jefferson. The time and the occasion of it, are not unworthy of notice. They form important features in the transaction, that serve to develope, not merely his own, but the motives and views that governed the family.

It will be recollected, that anterior to the last gubernatorial election in this state, public meetings were held, in almost every county, for the alledged purpose of approbating Mr. Jefferson's administration, and soliciting his continuance in the government. Though such was their *ostensible*, their *real* object, it is well known, was to promote the election of governor Tompkins. As for Mr. Jefferson's administration, you secretly reviled it, and at the very moment that popular meetings were vociferating the praises of the man, you were covertly undermining his reputation. At this time also it was well known to you, to Ambrose and many others, that Mr. Jefferson would not consent to be again a candidate for the presidency.

That pursuing the example of the immortal Washington, his mind on that subject was *immovably* fixed. Had you thought that it could have been shaken, you would have been the last man in creation, that would have hazarded the attempt. But on this point, you were well assured there was no risk. With perfect safety to your own views, that were now directed to the presidential chair, you could most courteously press it upon Mr. Jefferson, and at the same time seize the occasion for *virtually* possessing yourself of the government of this state. Though I cannot compliment the purity or morality of the project, it was certainly, in its political operation, auspicious to your views. It was calculated to impose upon the public; to deceive the people, as to your real designs and objects; to throw a meritricious glare around your actions; to give the impression, that you and your party were the genuine *patent* republicans of the state, and that

the friends of the opposing candidate were either federalists, or at best, lukewarm supporters of the government. Though nothing could be further from the truth than such inferences, as subsequent events have most decisively demonstrated; yet it must be confessed that in the results expected from the arrangement, you were not disappointed. The people of this state, and the general government, were duped by it, and the whole weight and influence of the latter, were thrown into the scale of your candidate. He succeeded in the election, which substantially placed this state under your controul. And now a new scene opened to your view. Placed at the head of so important a member of the union, and all objects of domestic ambition gratified, your attention was directed to the general government. Mr. Jefferson was soon to quit the presidency. You languished to obtain it. But how, or by what means, required all the resources of your ingenuity and intrigue. Upon your own merits, you had no pretensions to the office. To reach it in the person of your uncle, promised a more favourable issue, and was equally as desirable, because in its consequences as beneficial.

And now, a new and desperate game was to be played. To succeed without the aid of federalists, was known to be impracticable. Their resentments must therefore be appeased, and their good will secured:—But in what mode? By the sacrifice of Mr. Jefferson! He was to be denounced and offered up, as the great propitiatory atonement; and the officiating high priest at the oblation, was the immaculate judge Spencer. Is the proof demanded? It shall be given.

I now therefore aver, and pledge myself to prove in a court of justice, that judge Spencer, a short time anterior to the Washington nomination, at a circuit court held by him at Whitestown, in the western district, denounced Mr. Jefferson as totally unfit to be president of the United States. That he did this at a public court dinner, in the presence and hearing of a large concourse of citizens, and especially of federal gentlemen of the bar. That he declared himself substantially to this effect, and if I am rightly informed, in the following terms. “That he was fully satisfied, a speculative, *philosophic* president was not calculated

for this country. That we wanted a man of practical knowledge, and acquainted with human nature!"—Here his honor paused; and after receiving the smiles and encouraging greetings of the federalists to go on, (who were lost in admiration and astonishment,) he thus proceeded—"That he knew no man who possessed these qualities in so eminent a degree as governor Clinton."

This was the first intimation that the republican party had, of the designs of the Clinton faction. But it was not the *only* one that the judge gave in the course of that circuit. If my information be correct, and it cannot be doubted, he took unwearied pains to disseminate the same sentiments in different parts of the western district, upon various *public* occasions. I have selected this instance of his hostility to the general government, and treachery to the republican party, because it occurred in a remote part of the state, and there is reason to believe it is not well known. The active part he took the last winter, to induce the legislature to nominate Governor Clinton for the presidency—the caucus that he called upon that occasion—the inflammatory speech that he made—and his subsequent infidelity and desertion of his uncle and best patron, are notorious. To the conduct of governor Clinton's two hopeful nephews, the one in the west, and the other in the south, may be justly ascribed the present success of federalism.

Thus was governor Clinton first nominated; and the manner of doing it, plainly indicated the return that was expected. The federalists took the hint. Governor Clinton was now their champion. To induce the eastern federalists to support him, judge B—S—N, was dispatched to Boston; and upon a similar errand, he made his famous visit to Albany.

While these arrangements were making, your presses and scycophants were denouncing Mr. Jefferson in every part of the state: it was not enough to extol governor Clinton, and to ascribe to him deeds which he never performed, and talents that he never possessed; but Mr. Jefferson's character and administration must be lacerated and vilified, with a virulence and malignancy surpassing all former precedents.

This nomination was the signal for calling into action all the infuriated passions of the soul, for arousing those deep-rooted and latent resentments against the administration, which by long suppression had become more vindictive and diabolical. In your zeal to outstrip each other, in this work of havoc and devastation, it did not once occur to your stupidity, that the man whose conduct and character you were now imprecating, is the very man, whose character and conduct, but a few months before, you were extolling to the skies, and soliciting to continue in the government. Ye perfidious hypocrites! where shall I find language to depict your abomination!—But, to return to the family.

The next, in point of time, who joined in the hue and cry against the administration, is your very worthy and respectable cousin Genet. This man is reputed to be your most confidential friend, and to him is entrusted the projecting and executing of all the political arrangements for the eastern district. To manifest his zeal in the holy cause, and to be more distinguished than the rest in the family escutcheon, he wrote a book [O that mine enemy would write a book!] in which, with a view of attaching criminality and foreign influence to the administration, he boldly declared that Mr. Madison, and Mr. Jefferson were French citizens. But as I have, in the preceding number, referred to this book, and recommended it to the perusal of the last and present executive of the union, I shall not now stop to make extracts from it.

After monsieur Genet, I beg leave to introduce to the reader the pious expounder of the Revelations, your very conscientious father-in-law, Samuel Osgood. This man holds a very lucrative office under the government of the United States. The second in the custom-house in the city of New York. Attached to property, and wholly occupied in the acquisition of wealth, prudential motives had for a long time closed his mouth. Hostility to the administration was nevertheless, rankling in his breast. Though it occasionally manifested itself among his friends, it reached the public ear only in whispers. At length the wished-for period arrived; when he fancied he could with perfect

security, give vent to his resentments, without endangering his purse. The administration was struggling under what he, and the whole Clinton-party considered and endeavoured to make an unpopular measure; that, in the language of the family editor, "was a millstone round their necks which must sink them."

Mr. Osgood was willing to add his weight to the pressure, and, with Josiah Masters believed, "that out of the unpopularity of the embargo they would make their president." At this juncture, Mr. Osgood threw off his disguise, and appeared the open and bitter enemy of the government. At the caucus held at Mr. Wortman's house in Pine street, in June 1808, where you also attended, he did not hesitate, in a set speech, to condemn the administration in the most unequivocal terms, and to press upon the meeting the necessity of immediately nominating governor Clinton for the presidency.

Mr. Osgood is your father-in-law, and is known to be under your influence. From you he receives his political creed. The imbecility of his mind, and the natural timidity of his character are such as must convince every person who is acquainted with him, that he would not venture to express a sentiment, or take any step of a political nature, that was not suggested or approved by you. Upon the present occasion, he was your pioneer. The speech that he made, was to sound the feelings of the caucus. If they beat in unison with yours, you were to follow him, in an animated address, urging upon the meeting, the propriety of their taking a bold and decided stand; but the reception it met with, was not such as you expected—you had penetration enough to see it; and though in the remarks that you made, you were more ambiguous than your father-in-law, yet Mr. PELTON informs us, that enough escaped you to satisfy the meeting that you coincided with him in sentiment. You were for waiting for events, for postponing an immediate decision, and in the interim, for *concealing* what had passed in caucus. Though you failed in the vote of *secrecy*, you had address enough to impose such silence upon the meeting, as that the object and tenor of its deliberations, were not generally known till the month of March following. At that period, Mr. Osgood's conduct at the caucus,

was brought to light by the Public Advertiser. Mr. Madison was now president, and Mr. Osgood began to tremble for his office. Apprehensive that if the statement in the Advertiser was credited at Washington, he might lose it, he requested two friends to assure the editors, it was incorrect, and to beg that they would apologize for it. Instead of apologizing, the allegations of the editors were confirmed by Mr. Daniel Pelton, a respectable farmer of Westchester county, who was present at the caucus, who noted in writing the substance of the different speeches that were made, and who, in the Public Advertiser of the 31st of March, 1809, under his own signature, declares that Mr. Osgood, after going into a long detail of the situation of the custom-house department, with a view of proving the '*imbecility*' of the administration, and the *ruinous measures* it had pursued, in answer to an objection that there was no probability of Gov. Clinton's success, replied, "O, gentlemen, you are mistaken; for the eastern states will no doubt support Mr. Clinton, and as for Massachusetts, *I can pledge myself* they will give an unanimous vote for our friend George Clinton."

Independent of the daily proofs which the Clinton paper at that time gave, of their implacable hostility to the administration, and of a good understanding and co-operation with the federalists, there is the fullest evidence of both, in the open confession of Mr. Osgood. After this, no man can doubt the facts, who is not either a knave or a fool.

Having incidentally introduced the name of Josiah Masters, it may be expected that I should take some notice of him. His insignificance would protect him from exposure, if his close intimacy and correspondence with you and judge Spencer, had not given him a momentary importance. In this light, his declarations and conduct, are entitled to some notice, and cannot be considered a bad commentary upon yours. In that view it is, that I now state, that Josiah Masters (about the same time that judge Spencer was making his western electioneering circuit) at a public court dinner, at Troy, in Renssalaer county, addressed one of the judges of the supreme court of this state in the following terms, "Mr. Justice —, you federalists should

be with us Clintons." Why so, Judge Masters? "Because you are for pulling down Mr. Jefferson;" ergo, *so are we*.

But why refer to third persons, to demonstrate your hostility to the administration and the measures of the general government? On these points there cannot be a shadow of doubt. For your hardihood, it has been reserved, at one period, to denounce the administration, to condemn its measures, to insinuate French influence, and through your own press to put the infamous slanders in circulation; at another, and no distant date, to make a time-serving *speech*, in favor of the same administration, approving the same measures, giving the lie to your former libels, and aiding in the ruin and destruction of the poor printer, whose only crime was *believing* you.

PHILO-CATO.

MARCUS, No. VIII.

TO DE WITT CLINTON, ESQ.

SIR,

YOU have considered it necessary, under the sanction of your name, to deny the charges I have made against you: "you have directed prosecutions to be *immediately* instituted against the author and publisher, and you have pledged yourself to your friends that a judicial investigation will demonstrate the *folly*, the falsehood, and the malice of the charges."

You and MARCUS are now at issue before the people. By your publication in an "Albany Register Extraordinary," you have attached to his letters all the importance he could have wished. On no former occasion have you ever deigned to reply to anonymous writers; and if your *debut* serves to establish your character for *truth*, *candor* and sincerity, then will MARCUS consent to be the scoff and ridicule of interested knaves and fawning sycophants.

You have appealed to the laws of our country: they are wise and wholesome, and their provisions are such that we cannot fail to receive justice. I am, therefore, gratified with the plan you have adopted. But you will pardon me, sir, when I express my doubts, as to your *sincerity* in *immediately* pursuing this judicial investigation.

I wish now to be understood, by your friends and mine, that I intend to justify; and my justification shall consist in proving the following facts.

First. That Gen. Bailey, with your knowledge and approbation, entered into certain stipulations with the Burrites.

Second. That through your agent, Bailey, agreeably to those stipulations, 18,000 dollars were procured from the Manhattan Bank, for the accommodation of a Burrite, and that additional accommodations were obtained by other Burrites, from the said Bank.

Third. That pending the negotiations for a union, you kept your party ignorant of the measures that were pursued by you to accomplish it; and that after your meetings with Col. Swartwout, you permitted Warner, Cooper, and others, to exert themselves to bring about that reconciliation which you had previously consummated.

Fourth. That you called at the house of Ezekiel Robins, on the 24th January; conveyed him to yours, and from thence to Gen. Bailey's, in your own carriage.

Fifth. That you there *promised* to put Joseph Annin in the council of appointment, if possible; and *positively* to remove G. Livingston from the office of clerk of Dutchess county, and to place in his stead Levi M'Keen; that you also *promised to provide* for other friends of Col. Burr, who shall be named in due season; and that you referred the Burrites to Gen. Bailey and P. C. Van Wyck, as your confidential friends.

Sixth. That after making these *promises*, you wrote a letter to Gen. Bailey, stating that *promises* would dishonor your party, &c. and inviting frank and explicit explanations from gentlemen of the Burr party.

Seventh. That those explanations were given, and that similar ones were required from you, and assurances made that your answer should be used "*to remove erroneous impressions;*" that to this letter you never replied.

These, sir, are the principal charges I have made against you; I am ready *to prove them*. Instruct your counsel to draw the declaration in such a manner as to place the points in dispute fairly before the court; countenance no pettifogging quirk of the law, with a view to suppress testimony, or to evade the true questions between us. I am willing that all unnecessary forms shall be dispensed with, and that no advantage shall be taken of any error that may occur through haste or inadvertence.

I am aware of the *subterfuge* to which the General will resort, but it will require more than "*one bridge,*" to secure his *retreat*; to explain the transactions of the Manhattan Bank, and the promises that were made and performed relative to discounts.

If this is, as you are pleased to term it, "*a nefarious libel,*" let it be *immediately* repelled. I have no desire to procrastinate; and invite you instantly to furnish a *declaration*; the printers will plead as soon as counsel can draw the plea; and we can thus place the cause at issue in a few days. It is *my wish*, and it must be yours, if you are *sincere* in the prosecution, to come to trial during the *present* session of the legislature, that every member may return to his home with incontrovertible proofs of your *guilt* or your *innocence*. I propose, if you are willing, to try it at the first circuit in either of the following counties; viz. Albany, Dutchess, New York, or in your native county, Orange.

It is easy to see that MARCUS has tormented you. The language and ungenerous manner of your late publication, sufficiently indicate the temper with which you think of him. There are those who abhor the voice of truth, as the hydrophobist abhors the sight of water. Like the wounded serpent who is disabled to pursue his wily course, you writhe in agony of rage; and like that reptile too, in your expiring convulsions, you will wound your own members, and infuse your proper venom into your own body.

MARCUS.

PHILO-CATO. No. 11.

TO DE WITT CLINTON, Esq.

THESE numbers having reached an extent not originally contemplated, I shall endeavour to compress, into as narrow a compass as is practicable, the remarks I have to make, upon the remaining articles of the "Union."

The third article stipulates "that the friends of Col. Burr, as it respects appointments to offices of honour or profit, throughout the state, *should* be placed on the same footing as the most *favoured Clintonians*, and that their Burrism *should* never be urged as an objection to their filling such offices."

The dictatorial imperative style, which is to be seen in this stipulation, pervades the whole compact. You contract for the "offices of honour and profit" of the state, as if they were your property, inherited from your uncle, and subject to your exclusive disposal. In truth, sir, whatever may be the theory of the constitution on this subject, there are too many lamentable proofs, during his administration and yours, that, in *practice*, this has been the fact. To such an extent has this family monopoly been carried under his and your auspices, that there is scarcely a Clinton, Tappen, Van Wyck, Van Courtland, Tallmadge, Bailey, Stewart, Spencer, Field, Bloom, Parker, Taylor, Bloodgood, Cooper, Osgood, et cetera, who are related to you, though in the most distant degree, that is not in office, and some of them hold several.

Upon computing the places of *profit* held by the Clinton family, and its connexions, (not including their *honorary* appointments,) I find that they exceed *forty*, and that the aggregate amount of their emoluments is *greater* than *all* the other offices of the state. But though thus amply provided for, it seems *you* were not satisfied, and that when the administration of this state, was about passing into other hands, the executive candidate was given to understand, that though he might be nominally the Governor of the State, the offices of it must be considered as the property of the Clinton Family.

Chancellor Lansing has declared to us, in a communication under his own signature, that after he was nominated for the government, and consented to be the candidate, an attempt was made to *bind* him to *terms*, and that one of these was, to *make you Chancellor*. To take you from the bar, where you occupied an humble sphere, where your talents were below mediocrity, and elevate you to the highest judicial office in the state, over the heads of all the Judges of the Supreme Court. Modest proposal! Audacious insult!—The Chancellor treated it with indignation, and rather than submit to be a Mandarin Governor to move and nod as the puppets behind the curtain directed, declined the nomination. We have not yet forgotten the consternation into which the republican party were thrown by this unexpected occurrence, and the embarrassment that the great body of them were under to account for it. The disgraceful facts were known to but a few, and the Chancellor, from a regard to that cause and interest which he cherished, did not disclose them

till years after they happened—nor then, till compelled to it, in defence of his character. But let the Chancellor speak for himself. In his letter, dated at New-York, the 6th of April, 1807, he observes,

“ I will not shrink from a duty which has become impressive. I therefore say, *that an attempt was made to induce me to pledge myself for a PARTICULAR course in the administration of the government of the state, and to oblige me to submit to terms.*”

Again, in his letter of the 23d of the same month and year, he states,

“ He (Governor Clinton,) twice intimated that he was talked of for Vice-President, and *Mr. De Witt Clinton, for Chancellor.* I did not on the first intimation, take notice of it, but when it was *repeated*, after a considerable interval of time, I observed that as to the Chancellor's office, my sentiments were well known: that in the superior tribunals of the State, the seniority or judicial officers ought to be respected in appointments, if the persons in that relation were competent to discharge the duties required of them in their new station.”

These facts, if they stood alone, coming from such high authority, from a man of Chancellor Lansing's worth and integrity, are a full commentary upon the article of the treaty now under consideration, and emphatically explain, *who are meant*, by the “*most favoured Clintonians.*” But they do not stand alone, they are supported by many other instances, all demonstrating; that none but those that belong to the royal family, or in some degree connected with it, or who will consent to be their tools and to pursue the course ‘*marked out*’ for them, can expect to receive any “*appointments to offices of honour or profit.*”

Is further proof of this position demanded? It will be found in the following affidavit of Col. Bruyn, than whom there is not a more respectable, conscientious man, in the state.

Col. Bruyn's Statement Corrected.

TO THE PUBLIC.

A strange and malevolent communication, bearing the signature of Ambrose Spencer, published in the Albany Register, under the date of the 15th inst. has this moment reached me. He has availed himself, with the avidity of a quibbling pettifogger, of an accidental error in point of time to disprove the truth of the facts contained in a statement which I have deemed it my duty to make to my country. By mistake, the year mentioned in my statement, instead of 1804, should have been 1802. That error corrected, the certificate will stand thus:

CERTIFICATE.

When the legislature commenced its session in 1802, it was admitted on all sides, that as the county of Ulster had for some years been destitute of a

member in the council of appointment, it was fully entitled to one in the council which was then to be chosen. I was at that time the only representative in the senate from Ulster, and of course was considered as the candidate. Some days before the council was chosen, I met Ambrose Spencer, Esq. near the old Dutch church in the city of Albany, who asked me *whether I would follow the route marked out for me, if elected?* I gave no reply, but indignantly left him. On the next day, and nearly on the same spot, I was met by Mr. DE WITT CLINTON, who accosted me thus: "*Sir, will you follow the **PATH WE HAVE MARKED OUT FOR YOU**, if you are elected to the council?*" I answered, that I should make no promises; that if I was elected, I should act as I thought proper. "Then," said Mr. Clinton, "I'll be damn'd if you should have my vote if I had one." I replied, that I would not thank him for his vote. The result was that Ulster was again denied its right to a member in the Council.

(Signed)

JACOBUS S. BRUYN.

State of New-York, ss.

Jacobus S. Bruyn, of the village of Kingston, in Ulster county, being duly sworn on the Holy Evangelist of Almighty God, deposeth and saith, that the facts contained in the above recited certificate are substantially true to the best of his recollection.

JACOBUS S. BRUYN.

Sworn this 18th day of April, 1807, before me, }
JOHN TAPPEN, *Master in Chancery.*

The honest, independent yeomanry of this country, will peruse with indignation the statements of Chancellor Lansing and Col. Bruyn. Coming from men of acknowledged honour and integrity, they carry conviction in every line. While they reveal the frauds practised upon the community, they disclose the hidden springs by which the politics of this distracted state have been too long controlled. A more direct, a more dangerous attack upon the dignity of a representative government, and the liberties of the citizen, cannot well be conceived. It is to infuse poison into the very vitals of the commonwealth. To defeat the very object of popular elections, and to insult the electors. Can they feel themselves free and independent when they behold a government of *representation* converted into a government of *bargain and sale*. When they witness an all-grasping party, attempting to place the executive magistrate under tutelage, and the state under the management of a *secret board of controul*.

Meeting with so decided a rebuff from Chancellor Lansing, it was not thought expedient to repeat the insult upon his successor. Governor Lewis was therefore permitted to go into the government untrammelled by any terms or conditions, or even with the most distant hints or attempts to impose them. It is well known however, that he was not long there, before arrangement

were made for carrying covertly into effect, what they had not dared openly to propose, for putting the same system into practical operation upon Governor Lewis, which they had unsuccessfully attempted to force upon Chancellor Lansing.

The governor was to be governed—he was to be placed in leading strings—to be led, and moved by unseen masters—to think, speak and act as they directed—to eject from office, indiscriminately, all whom they condemned, and to appoint such only as they approved. If he would not submit to this tutelage, he was not fit for their purpose, and must be discarded. Governor Lewis, it was soon discovered, would not be a pliant tool, and was not composed of materials for management. Representing a free and independent people, to be free and independent himself was what his own, and the dignity and interest of his station demanded; it was the best evidence he could give to his constituents, that the confidence reposed in, and the power entrusted to him would not be abused. Upon this high ground, he early took his stand, and as he would not surrender it to intrigue or menace, it became necessary to drive him from it by the force and influence of cabal. From that moment, the triumvirate denounced him. The party writers and presses in pay were immediately put in requisition, and not a scoundrel who had talents enough to fabricate or write a lie, that was not induced, by the promise of an office, or the fear of losing one to labour in his vocation. With a malignancy that could be equalled only by their depravity, they assailed his character, private and official, with the grossest calumnies. In the courts of law the former has received the most ample and honourable justification, and his slanderers, to escape from the horrors of a jail, have been compelled to rely for pardon upon that mercy which they had traduced.

While courts and juries were rendering justice to the *private* character of governor Lewis, subsequent events have borne the highest testimony to the independence, the wisdom and integrity of his *official* course. Even the legislature of the state, by extending the respite of Arnold, which formed a primary ground of accusation against the governor, and commuting his punishment from death to confinement for life, have, by a solemn act, declared their approbation of this measure of his administration. The second, and only remaining deed of horror for which he was denounced, was voting in the council of revision, to incorporate the Merchant's Bank. This question had long agitated the state and legislature. By the most artful devices, and for the most factious purposes, it had been made to insinuate itself into every measure of the government. Nothing was said or done, that had not a reference, in some degree, to this fruitful topic of collision. To oppose the incorporation of the Merchant's Bank, was a test of republicanism, to advocate it, the highest proof of defection and federalism.

Governor Lewis was one of those who thought that party considerations should not intermingle themselves in the decision—that it was a question which

addressed itself to the sound judgment and discretion of the legislature. That if they conceived, the public interest required the establishment of another bank in the city of New-York, and deemed it expedient to incorporate it, he saw no justifiable grounds upon which the council of revision could object. That neither the constitution of the state, nor the usage of the council would tolerate such an interference.

Many considerations which might influence the legislature would not be regarded by the council of revision.

Their powers are limited and accurately defined. They are to prevent the passing of laws "inconsistent with the spirit of the constitution, or the public good." In neither of these particulars did the incorporation of the Merchant's Bank afford ground of complaint. The accusation against the governor when divested of the colouring given to it, was, that he did not step aside from the plain path of duty, and vote against the bill because it was asserted that individual members of the legislature had conducted improperly. The doctrine was novel. From the establishment of our government, there has been but one opinion on this subject. The council have no concern with the motives of the legislature. The constitution having wisely provided them with a different standard to test the merits of a bill.

The clamor excited against the bank, that it was to destroy the Manhattan Company, to prostrate the republican party in the city of New-York—to place the Southern district in the hands of federalists, he viewed as the idle and interested suggestions of stock-holders, speculators, and rival monied establishments. That this opinion was predicated on a just estimate of facts, we have now the most indubitable testimony. The Manhattan Company still exists, and is more flourishing than ever. The republican party, have, since the establishment of the Merchant's Bank, been more triumphant in their elections in the Southern district, than at any former period. But what is most decisive on this point, is, that the very men who were most vehement, and clamorous against the Merchant's Bank, when its *stock* was in *other* hands—who could see nothing but ruin and destruction to the city of New-York, and the republican party, if a fifth monied institution was incorporated, and one of whom (William W. Gilbert) in a formal report to the legislature, stated, that another bank was "*inexpedient*," did, after the adjournment of the legislature, meet, and make arrangements, not only for suppressing the Merchant's Bank, but on its ruins to establish one of *their own*. When *they* were to hold the stock—when the loaves and fishes were to be divided among themselves—these honest disinterested patriots could see no objections to a fifth, or even a *sixth* bank in the city of New-York; there was then business enough for all, and the republic was not in danger.

*But lest it should be doubted that such incorruptible, immaculate patriots, existed in an age so enlightened and liberal, I beg leave for the benefit of posterity and their fair fames, to submit the evidence of the fact: it consists of Mr.

William W. Gilbert's report to the legislature, and of Mr. Isaac Kibbe's affidavit. A simple comparison of their dates will show how differently [no doubt from the purest motives] the patriotic Mr. Gilbert, and his honest associates, thought of Banks in the month of February, 1803, and in the ensuing summer. But let the documents speak for themselves.

"Mr. William Gilbert, from the committee to whom was referred the petition of Jonathan Lawrence and others, and a memorial of John Swartwout, in behalf of himself, and others, his associates, of the city of New-York, praying an act of incorporation, under the style, &c. reported, That after taking the prayer of the petitioners into serious consideration, they are of opinion, that it is at present inexpedient to grant the prayer thereof for the following reasons.

"FIRSTLY.—Because in the opinion of the committee, there are already as many banks in the city of New-York as are sufficient to answer every valuable purpose which can be obtained by any increase of the banking system in said city.

"SECONDLY.—Because, to incorporate more banks than what is absolutely necessary for the convenience of trade, would only serve to open a large field of speculation highly detrimental to the public good."

Extract from the journals of the assembly of the 25th of Feb. 1803.

On the testimony of Mr. Kibbe, I have only to remark, that it is presented in the authentic, solemn shape of an affidavit, and is of a nature and character to entitle it to full credence. Possessing the confidence of the caucus gentry, he was invited to attend their deliberations. His testimony, therefore, is conclusive against them, and must be considered as establishing the facts in details.

City of New-York, ss.

Isaac Kibbe, of the city of New-York, merchant, being duly sworn, maketh oath, That some time in the summer of the year 1803, this deponent was informed, by William W. Gilbert, (to the best of his recollection,) of the same city, Esquire, that he, the said William, and others, had it in contemplation to found another, or fifth bank in the said city; that they would soon meet on the business, and requested him [this deponent] to meet with them, saying to him, [this deponent] that he would be seasonably notified of such meeting. And this deponent further deposeth and saith, that a few days after such conversation with the said William W. Gilbert, he [this deponent] received information, that such meeting would be held at the house of Mr. Mathieus, in Nassau-street, and that he accordingly attended there, and found a number of gentlemen assembled for that purpose. That the subject of establishing such fifth bank was discussed without coming to any decisive conclusion; and the gentlemen there met, agreed to adjourn and meet again. That he [this deponent] attended such second meeting, and a third meeting of these gentlemen.

And the deponent further saith, that at one or more of these meetings, the said William W. Gilbert, William Few, Samuel Osgood, John Broome, George Lewis, Henry Rutgers, and James Bogart, of the house of Baily & Bogart of the said city, merchants, as well as others attended, that the said James Bogart acted as Secretary, and, he thinks, Mr. Osgood, President. That in the course of the conversation on the subject of instituting such fifth bank, the said William W. Gilbert, William Few, and Samuel Osgood, strenuously urged the foundation or establishment of such fifth bank. That it was observed by them, or some of them, that the Merchant's Bank would probably not obtain a charter, and if it should, there was business enough for a fifth bank. That Mr. Rutgers took little or no part in the discussion. That Mr. Broome observed, that he was always in favour of the Manhattan Company, and did not know how this would affect them: but that he believed it would be of no injury to them, as he thought there would be business enough for a fifth bank. That the deponent was informed, and verily believed, there were other subsequent meetings of these gentlemen, for the purpose of establishing such fifth bank: but, that being taken sick early in September, he continued unable to attend to business until the latter end of December, and he never attended any after meeting: and further this deponent saith not.

ISAAC KIBBE.

Sworn to this 6th day of March, 1805, before me, }
ISAAC L. KIP, *Notary Public.* }

Nor did the inconsistency of these gentlemen terminate here. When the Merchant's Bank, contrary to their expectations and wishes, became incorporated, and with it all their fair prospects of realizing fortunes vanished, these genuine republicans were the foremost to denounce governor Lewis. And for what? For thinking as they and the legislature had done, that there was business enough in New-York for another bank:

Such are the characters that surround you—who possess your confidence—who, in conjunction with you, Ambrose and Jenkins, have ruled the councils of this state, and who denounced the last executive, because he would not submit to be governed by them.

Whether his successor has been equally independent, let his official conduct, pronounce. Let the *pardons** he has granted, and the appointments he has made in and out of the *family*, civil and military, decide. If these do not speak a language plain and explicit, I will not put a tongue in them. But I must return to the *treaty*.

The fourth article is in the following words,

* It is presumed that the PARDONS here referred to are for offences against the duelling act, which it is ascertained certain gentlemen have recently received.
Publisher..

"That at the approaching election, in April, the Burrrites *should* have a portion of at least *one third* of the representatives of the city and county of New-York in the state legislature."

I envy not the heart, nor the head of that man, who can read this stipulation without a burst of indignation. To contract for the reception of Col. Burr—to stipulate for the services of Cheetham—to promise the offices of honour or profit of the state, are offences light as air, when compared to that political turpitude that can barter away the suffrages of a free and independent people. Shall the man who offers a dollar in bribe to some miserable wretch, for one solitary vote, be held obnoxious to the penal laws of his country, whilst he, who offers for sale the votes of a whole community, shall escape with impunity? Fellow citizens, the question is addressed to you, answer it according to the dictates of your unbiassed judgments. Can you ever afterwards place confidence in him who has had the insolence to traffic away your most inestimable privileges—To say to you "the Burrrites *should* have at least one third of the representatives of the city and county of New-York." But, degrading and insulting as this conduct is, there is too much reason to believe it is not the only instance of a similar nature, on record against you. In the Washington Monitor of the 16th of January, 1809, the official paper of the administration, the editor, Mr. Colvin, at the conclusion of an eulogium on the character of Mr. Madison, makes the following pointed remark.

"Are certain individuals audacious enough to solicit his patronage, and promise in return, the *implicit obedience of a state*? They must be spurned, because it is incompatible with the purity and independence of republican institutions. Insolent mortals! How dare they offer to *barter the suffrages of a state*?"

Will you tell us, Sir, to what, and to whom Mr. Colvin here refers? Or must we have recourse to your friend, Masters, and your cousin Genet for the reply. Out of their mouths you shall be convicted.

Upon the authority, then, of Genet, I state, that proposals were made to Mr. Madison's friends, at Washington, to take you up for the Vice-Presidency, to the *exclusion* of your uncle, which they *rejected with disdain*. Again, Sir, I aver, that your confidential agent and correspondent Masters, did declare, in the hearing of Mr. Eppes, and other republican members of congress, that if Mr. Madison's friends would support *you* for the Vice-Presidency, he should receive the unanimous vote of this state for the Presidency. This is the disgraceful traffic to which the Monitor alludes. And is it surprising that it was rejected with indignation? Whatever sentiments you may entertain for your uncle and benefactor, the friends of the general administration felt too much veneration and gratitude for his character and services, to countenance so ignominious a project to supplant him. They had too much magnanimity, clandestinely to destroy the man whom they had publicly recommended for

the second office in the government. And does not the reader at once perceive in this project, the real source of all the opposition to the measures of the government, and the election of Mr. Madison, that has been ~~inserted~~ in this state? It was not to advance governor Clinton; but to subserve the cause of De Witt, that the embargo was reprobated, and French influence in the cabinet insinuated. It was not to make the former President, but the latter Vice-President, that Mr. Madison and Mr. Jefferson were ridiculed and calumniated, and charged with being French citizens. While Ambrose was, for a season, zealously engaged in rallying the faction under the banners of the uncle, you sir, his nephew and protégé, were secretly plotting the most effectual mode to undermine and destroy him. To the indignity offered to the state, you superadded the basest ingratitude to your political father. To the man who had cherished and reared you, and to whom you are indebted for all your political consideration. This was the finishing stroke to your character, the very acme of guilt and treachery.

On the last article of the treaty, I have but a few remarks to make. It is couched in the following terms, "that De Witt Clinton should see that they (the Burrites,) were accommodated to any reasonable amount they might require in the Manhattan Bank, and that he should actually procure for an individual in the course of the next week, an accommodation in said bank of at least *eighteen thousand dollars*."

I confess, Sir, that as to this article of the treaty, I was for some time an infidel. I did not believe it possible, that a monied stipulation, so corrupt and extensive, could have made its way into a political bargain; or if it did, that twelve directors of the Manhattan Bank could have been found who would have carried it into effect. But I have been mistaken. From the information I have obtained, and it comes from a quarter that cannot err, it is certain that this article is correctly stated, and has been faithfully executed. That Col. Swartwout, at the time, and in the sums mentioned by Marcus, received the *eighteen thousand dollars*, specified in the contract. As a friend to the Manhattan Bank, I deeply regret the occurrence. It affords another proof, in confirmation of what we have recently witnessed, that you have too much influence in that establishment, that you are converting it from its original destination into a political engine, and that the interest of the institution demands your *immediate expulsion* from it. It can now no more be doubted that the branches that have been established at Poughkeepsie and Utica, owe their origin to political arrangements and your preponderating weight, than that they are unauthorised by the charter of the company. This subject is beginning to excite public attention, and before it is brought into *legislative* review, I hope the bank will see the propriety of recalling its capital. In the political revolutions of the day, amid the changes and violence of party, who can foresee what *forfeitures* may attach to a misuser of chartered privileges, or to an

assumption of powers not legally granted. I hope I may be understood, and that this hint will not be disregarded.

On the topics contained in this paper I could enlarge, but I have written enough, if the sentiments of the reader are in unison with mine, more would be superfluous, if not, volumes would not suffice.

PHILO-CATO.

FINIS.

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